



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 ~~

Wednesday, May 11, 2016

Public Safety Facility, 4 Fairgrounds Road, Community Room & Training Room –11:00 a.m.

Called to order at 11:08 a.m.

Staff in attendance: Eleanor Antonietti, Zoning Administrator; T. Norton, Town Minutes Taker
Attending Members: Toole, Botticelli, McCarthy, O'Mara, Koseatac, Poor, Thayer, Mondani
Absent: None
Late Arrivals: Thayer, 1:11 p.m.
Early Departures: None
Town Counsel: Ilana Quirk, Kopelman & Paige, P.C.
ZBA Consultants: Ed Marchant, 40B Advisor

Agenda adopted by unanimous consent

I. APPROVAL OF MINUTES

1. April 14, 2016: **Motion to Approve.** (made by: Koseatac) (seconded by: Botticelli) 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/Schwartz

The Applicant is seeking a Comprehensive Permit in accordance with M.G.L. Chapter 40B, as approved by Massachusetts Housing Partnership, in order to allow a multi-family project consisting of 56 rental apartments with fourteen (14) to be designated as affordable units. The apartments will be arranged in two 2½-story buildings with thirteen units each and two 3½-story buildings with fifteen (15) units each. There will be a total of two 1-bedroom units, forty two 2-bedroom units, and twelve 3-bedroom units. The project will also include a clubhouse and pool. If approved, the property will be permanently deed-restricted for the purpose of providing affordable year-round housing. The file with a copy of the complete and updated list of requested waivers is available at the Zoning Board of Appeals office at 2 Fairgrounds Road between the hours of 7:30a.m. and 4:30p.m., Monday through Friday or via link to posting of all document related to this project found on Town of Nantucket website: <http://www.nantucket-ma.gov/708/Atlantic-Development---106-Surfside-Road>. The Locus, situated at 106 Surfside Road, is shown on Assessor's Map 67 as Parcel 80. Locus is also shown as Block 22 on Plan File 3-D and as Parcels 7-11 (inclusive) on Plan No. 2014-52. Evidence of owner's title is recorded in Book 1410, Page 205 and Book 1488 Page 213, both on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General 2 (LUG-2) and Limited Use General 3 (LUG-3).

Voting Toole, Botticelli, O'Mara, Koseatac, McCarthy
Alternates Poor, Mondani
Recused Thayer
Documentation File with associated plans, photos and required documentation
Representing Donald J. MacKinnon, Atlantic Development
Steve Schwartz, Goulston and Storrs, counsel
Joshua Swerling, Bohler Engineering
Margaret Murphy, Atlantic Development
Gary Gardner, Sheskey Architects
Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP
Public Patrick Taaffe, 21 Okorwaw Avenue
Mary Beth Ferro, 104 Surfside Road
Jane Valero, 9 Gladlands Avenue
Cormac Collier, Executive Director Nantucket Land Council (NLC)
Jessica Davis & Linda Davis at 108 Surfside Road

Discussion (11:37) **MacKinnon** – Reviewed changes to the site layout, distance to neighboring properties.
Gardner – Reviewed architectural aspects and Island precedent. Explained how the proposed design addresses the needs of an average working class resident. Cited 15-23 Orange Street block as precedent. Exterior materials are to be cedar shingles and trim.

O'Mara – The entrance shares space with the exit in proximity to the playground and to the 8-car parking area.

MacKinnon – There is a fence along the play area and the drive is 24-feet wide. They haven't heard from the Planning Board yet. Reviewed upcoming changes: wastewater treatment, building size, public safety. They are at the point to start updating the architectural plans.

Poor – If an on-site wastewater treatment plan is being proposed, the Board of Health (BOH) will have to look at this.

Botticelli – The height of the structures should come down. Pointed out that the Orange Street block does not relate to this building or this location. Right now these buildings don't reflect Nantucket architecture; should reduce the roof pitch to a more typical pitch.

Toole – Noted that all the precedent photos are from in Town; these are totally out of context with this area.

Botticelli – This is an open rural area and that should be kept in mind when designing these structures.

Schwartz – Stated that they are not considering any changes to the overall massing considering the purposes of these buildings; they feel comfortable with the design of the project as does the subsidizing agency, which took a close look at this. They are comfortable with the 40B precedent in regards to design in face of the need for affordable housing.

Poor – He would like to address the Historic District Commission (HDC) comments as to how this project is justified in a rural context on this island.

Botticelli – Stated there is a letter from Deborah Timmerman of the Historical Commission (HC), which also expressed concern about the effect of this design on the overall character of the Island.

Toole – We are hopeful something better will come; this design is not very sensitive to Nantucket.

MacKinnon – To the extent that concerns were expressed about how out of context these are, will not be addressed.

Botticelli – The context references are not the same scale: those have two stories then the roof; these have 2.5 stories before the eave line starts. We can't respond to the proposed changes without the plans including them. Her main concern, and those of others, is the mass and design of these buildings.

MacKinnon – Stated he understands the concerns about massing; they will look at adjusting the setbacks for the next meeting. They are hoping to review traffic; asked if the board would have their traffic engineer attend the next meeting.

McCarthy – She feels adjustment to the massing and traffic go hand in hand; Mr. O'Mara's concerns are valid; the central mailbox is presently on the corner of the sole ingress-egress point.

Toole – The peer review of the traffic can be done prior to the next meeting.

Botticelli – She is not ready to spend time on the traffic if there are still massing issues that have not been resolved.

Schwartz – Pointed out that there is 180-day deadline that has been extended so would appreciate the board closing the project in a timely way.

Toole – In regards to the timing, we have to September 30. If the changes had been presented in a substantive form at this meeting, we would be discussing them.

Botticelli – There is no buffer around the site except for a single line of trees on the property line; that is insufficient.

Toole – Suggested looking at breaking up the buildings into six smaller structures to be more contextual.

MacKinnon – That hadn't been looked at; doing that would take up more space.

Marchant – The important number is 52 apartments. Massing is a huge concern; suggested the client take a look at a redesign to address the massing and keep the level of drawings to preliminary. Given that wastewater is under 10,000 gallons, they could do a Title V compliant system, which would provide more flexibility than a private-package treatment plant. A requirement for a private-package treatment plant occurs when bedrooms exceed 90; it is not a coincidence that this project has 87 bedrooms. The Department of Environmental Protection (DEP) requires a long permitting process for groundwater discharge; they are thorough in operations, maintenance, and establishing a capital reserve. As long as they are under 10,000 gallons, the BOH would be responsible for monitoring this. There are special nitrate requirements they must meet. Maintenance of the system is up to the owner of the property.

Taaffe – If the 10,000 gallons is exceeded or fails, asked if they can forfeit to hook up to sewer. The average person uses 800 gallons a day, that would restrict occupancy to 100 people. Asked if an independent perc test has been done.

MacKinnon – The BOH witnessed the perc test and determined the soil to be adequate.

Marchant – Noted that it would be impossible to predict the number of occupants, 100 gallons a day is based upon the bedrooms. Ed Pesce, Engineering Consultant for the ZBA, is very familiar with the soil on the island and the system will go through a peer review.

Toole – The system would have to fail twice for them to default to sewer.

McCarthy – If the system were to fail, she is concerned about what would happen to the residents.

Marchant – This has a single owner and safeguards are in place.

Quirk – She will look at the special act in regards to emergency connection to sewer.

Ferro – She has a well that is close to the property line and needs to know where the septic would go.

MacKinnon – The system would go where the pool is, which is beyond 100 feet from Ms Ferro's well.

Marchant – There would be a condition that the system is subject to approval by the BOH.

MacKinnon – Believes the BOH would be charged with monitoring but it would not be approved by the BOH.

Quirk – She will look at that issue specifically as she has not seen a septic proposed for a 40B this large. State-driven permits under Chapter 31 and state building codes go back to the Building Commissioner and Conservation Commission. With respect to issuance of the Title V permit, she has to look into that.

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Ferro – The new bikepath might be an infringement into her privacy as it would entail fill and removal of trees. Compared the construction of these buildings to the construction of the school and how these would be out of scale to the neighborhood. Screening is an issue; a 4-foot fence would not screen anything; there should be lots of tall fences and big plants. The site would have to be cleared to the property line.

Valero – Shares Ms Ferro’s concerns. Also the number of parking spaces doesn’t allow for guests and she is concerned about where those vehicles would park.

Toole – Noted that the applicant can’t consider neighboring vegetation as screening for this project.

Collier – This site is in Zone 2, public wellhead recharge district, with no more than 2,000 gallons discharge per system, they are going to five times that. We need details for the peer review to protect our water.

Marchant – There might be provisions within Title V to grant relief for innovative systems.

Davis – Asked if the traffic report would include increased traffic for Boulevard and a future development. Noted the school bus does not stop in this area due to the proximity to schools.

Marchant – Noted the traffic study has to take into consideration any proposed development as well as natural increase. This board has a traffic peer review in the works and part of that review is to ensure that assumptions made are reasonable. The applicant peer reviewer should meet with the Town Planner to be made aware of future developments.

O’Mara – He is interested in a bus drive off area in this vicinity. The bike path could be routed around it.

Quirk – A license would have to be sought for the bike path as well as a Town easement. There is a potential that the license would be given and the path handed over to the Town.

MacKinnon – It would be built in accordance to Town legislation then become a Town bike path.

O’Mara – Suggested shortening the bike path, bringing it out of the north side of the project, keeping the bikes away from trucks and cars at the entrance.

Ferro – She and the other abutters question the bike path. Right now everyone crosses at the 4-way stop crosswalks; this new path will cause confusion by creating two places for bikes and pedestrians to cross.

McCarthy – Agrees that a bike path just to service the complex would be confusing. Supports the crosswalk.

Toole – We need to think about that in regards to traffic safety.

MacKinnon – At some point in time, there could be a roundabout at the Fairgrounds Road intersection; the bike path would prevent bikers from having to get into the roundabout. Noted also that the Surfside bike path crosses the road further up.

Valero – Agrees that the bike path and crosswalk adds to the traffic mix.

Davis – All rotaries have crosswalks; there is no need for the second bike path.

Motion to Continue to June 9 at 1 p.m. (made by: Botticelli) (seconded by: O’Mara)

Motion
Vote

Carried unanimously

2. 10-16

MHD Partners Real Estate, LLC

4 Goose Cove Lane

Brescher/Osgood

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).

Voting Toole, Botticelli, McCarthy, O’Mara, Koseatac

Alternates Poor, Thayer, Mondani

Recused None

Documentation File with associated plans, photos and required documentation

Representing **John Brescher**, Glidden & Glidden – Recapped the project. Reviewed additional information submitted in response to previous requests. There is an easement in place that protects abutter’s views.

Mickey Rowland, Rowland and Associates

Don Bracken, Bracken Engineering, Inc.

Ward Osgood, owner

Public None

Discussion (1:11)

Botticelli – At the last meeting, Mr. Poor had asked to see the HDC approval for any requested grade change. The bylaw doesn’t allow filling a site unless the existing and proposed grade are averaged; the fact that the land was filled without permitting and that change is not included in this application doesn’t sit right with her. The land was filled up to elevation 12. Noted that she’s not opposed to the request but feels the application is not correct.

Bracken – Zoning Enforcement Officer (ZEO) said that the ground elevation at the time of the application is what is considered as the existing grade. Based upon that they moved forward.

Toole – There is no evidence the area was previously dug out for the tennis courts. He has a real problem with filling ahead of time. He would like to have the ZEO’s new definition of fill in regards to the bylaw in writing for inclusion in the file.

Bracken – The area was definitely excavated; no depression shows in old photographs.

Discussion about the ZEO’s interpretation of the bylaw in regards to this application and future applications.

Toole – Wants the ZEO to go on record in writing that filling without a permit is “kosher”.

Rowland – His design went by what he was told, that once the HDC approves the grade, that is the existing grade.

Osgood – From his perspective, he was under the impression he could build. It was a big hole and he filled it to the grade appropriate to the surrounding area.

Toole – In his opinion, if there is a geological valley, someone shouldn’t be allowed to fill it to be at the same level with the abutters.

Botticelli – Before granting the variance, she wants accurate information of what was there and what is there now or a letter from ZEO stating the fill is okay.

Poor – Agrees with Ms Botticelli.

McCarthy – Expressed concern about the ZEO’s making an interpretation of the bylaw which affects the construction industry Island wide.

Toole – Reiterated that he would like the letter from the ZEO; also the board had asked for an accurate amount of fill and that hasn’t been supplied.

Antonietti – It might be safe to re-notice this application.

Brescher – Noted that the move date is set for June 7 and would like some decision by then.

Motion to Continue to June 9. (made by: O’Mara) (seconded by: Botticelli)

Motion
Vote

Carried unanimously

III. NEW BUSINESS

1. 11-16 John N. Sullivan and Marie T. Sullivan 5 Appleton Road Sullivan
Applicant is seeking relief by Special Permit pursuant to Zoning By-law Section 139-16.C by reducing the side yard setback from ten (10) to five (5) feet in order to validate the siting of the existing main dwelling and to site a proposed 400 square foot garage within the ten (10) foot northerly side yard setback. The Locus is situated at 5 Appleton Road, is shown on Assessor’s Map 66 as Parcel 390, and as Lot 19 upon Land Court Plan 13554-D. Evidence of owner’s title is registered on Certificate of Title No. 22449 at the Nantucket County District of the Land Court. The site is zoned Residential 10 (R-10).

Voting Toole, Botticelli, Koseatac, Poor, Thayer

Alternates None

Recused O’Mara, McCarthy, Mondani

Documentation File with associated plans, photos and required documentation

Representing **John Sullivan** – Asking for relief to reduce the 10-foot side-yard setback to 5 feet for a non-residential structure.

Public None

Discussion (1:42) **Toole** – Asked how the house ended up too close to the side line without relief.

Sullivan – This was initially permitted when the 5-foot setback was in place.

Toole – Cautioned he should go to 5’6” to avoid any mistake.

Motion to Grant the relief as requested with no further encroachment. (made by: Botticelli) (seconded by: Thayer)

Voting Carried unanimously

2. 12-16 Amos B. Hostetter, Jr., Stephen W. Kidder, & Michael J. Puzo, Tr., A & B Realty Trust

53 Baxter Road Reade

Applicant is seeking relief by Special Permit pursuant to Zoning By-law Section 139-33.A to alter the pre-existing nonconforming dwelling and garage by relocating them on the lot to increase the distance from the coastal bank, while maintaining the nonconforming front yard setback distances and creating no new nonconformities. The Locus is situated at 53 Baxter Road, is shown on Assessor’s Map 49 as Parcel 17, and upon Land Court Plan 20574-A. Evidence of owner’s title is registered on Certificate of Title No. 23030 at the Nantucket County District of the Land Court. The site is zoned Sconset Residential 20 (SR-20).

Voting Toole, Botticelli, McCarthy, O’Mara, Koseatac

Alternates Poor, Mondani

Recused None

Documentation File with associated plans, photos and required documentation

Representing **Arthur Reade**, Reade, Gullicksen, Hanley, & Gifford LLP – The proposal is to move laterally north an existing house and garage, within the front-yard setback, while maintaining existing front-yard setback for a new foundation. Been to the Planning Board to reduce the width of the driveway and received special relief to do that. Work to be done in the Fall.

Public None

Discussion (11:10) Discussion about imposing work limitations.

Motion to Approve with no exterior construction between Memorial Day and Labor Day. (made by: Botticelli) (seconded by: O’Mara)

Voting Carried unanimously

3. 13-16 Anjonc Real Estate 13 Company, LLP & Maureen Dunphy, Tr., One Kite Hill Lane Realty Trust
 1 Kite Hill Lane Brescher
 Applicant requests special permit relief pursuant to Zoning By-law Section 139-33.A to alter the pre-existing nonconforming dwelling and, to the extent applicable, Modification of prior Special Permit relief in order to expand the basement beneath the existing front porch. The pre-existing nonconforming side and rear yard setbacks will remain unchanged. The Locus is situated at 1 Kite Hill Lane, is shown on Nantucket Tax Assessor's Map 42.4.4 as Parcel 63. Evidence of owners' title is in Book 1484, Page 185 and Book 1517, Page 231 on file at the Nantucket County Registry of Deeds. The property is zoned Residential Old Historic (ROH).

Voting Toole, Botticelli, McCarthy, O'Mara, Thayer
 Alternates Koseatac
 Recused Poor, Mondani
 Documentation File with associated plans, photos and required documentation
 Representing **John Brescher**, Glidden & Glidden – There was a condition of no further construction without permit from the board; owner wants to expand the basement. All work is outside the setback and no change in footprint or groundcover. No abutter concerns. This is a request to modify the special permit or get relief.
 Public None
 Discussion (1:47) No concern as long as existing condition remain in place
 Motion **Motion to Grant the relief as requested with all conditions remaining in place.** (made by: Thayer) (seconded by: Botticelli)
 Vote Carried unanimously
 14-16 17 OSR, LLC 17 Old South Road Dale

Applicant is seeking relief by Variance pursuant to Zoning By-law Section 139-32 from the provisions of Section 139-16 to allow placement of a seasonal awning within the ten (10) foot front yard setback. The awning would be located over an existing outdoor dining area in the front of the structure associated with the operation of the restaurant known as Fusaro's. The Locus is situated at 17 Old South Road, is shown on Assessor's Map 67 as Parcel 41.2, and as Lot 4 upon Plan File 44-Q. Evidence of owner's title is in Book 1496, Page 25 on file at the Nantucket County Registry of Deeds. The site is zoned Commercial Neighborhood (CN).

Voting Toole, Botticelli, McCarthy, O'Mara, Koseatac
 Alternates Poor, Mondani
 Recused None
 Documentation File with associated plans, photos and required documentation
 Representing **Kevin Dale**, Vaughan, Dale, Hunter and Beaudette, P.C. – The variance is for an awning to cover the front patio; the awning would encroach on the front setback; the property is conforming. Cited precedence for approval of this application. His client is prepared to meet all regulations. Reviewed site layout. Noted that when the parking calculations were done, patio seating was taken into account and it is part of the liquor license.
 Tom Fusaro, owner
 Public None
 Discussion (11:17) **Poor** – Need to recognize the awning as a structure for hurricane codes and other considerations to include patron safety. A building permit would be involved and material should meet fire safety regulations.
Toole – Would like evidence that all parking requirements are met included in the file.
 Discussion about how much the awning would encroach into the front- and side-yard setbacks and the need for a survey plan marking the dimensions of the awning.
Dale – Asked the board to allow the relief with submission of a supplemental plan in accordance with the variance.
Poor – The COI should clearly state what is the permitted seating.
Botticelli – Add the condition that there would be no amplified music on the patio.
 Motion **Motion to Grant the relief conditioned upon no amplified music on the patio, evidence that the patio is included in the COI seating plan, if the patio and awning are to be converted into a more permanent structure the owner must seek relief from this board.** (made by: McCarthy) (seconded by: O'Mara)
 Vote Carried unanimously

4. 15-16 Madaket Wheelhouse, LLC 13 Massachusetts Avenue Cohen
 Applicant is seeking relief by Special Permit and Variance pursuant to Zoning By-law Sections 139-33.A and 139-32 in order to alter the pre-existing nonconforming dwelling and garage. Applicant proposes to build two dimensionally compliant additions to the dwelling and to enclose an outdoor shower to be sited .5 feet from the westerly lot line, increasing that pre-existing nonconforming side yard setback encroachment. Applicant also proposes changes to the garage consisting of moving, expanding, and converting it into a secondary dwelling. The Locus is situated at 13 Massachusetts Avenue, is shown on Assessor's Map 60 as Parcel 75, and as Lots 12-15, Block 29 upon Land Court Plan 2408-Y and unregistered land lying north of said Lots. Evidence of owner's title is registered on Certificate of Title No. 25696 at the Nantucket County District of the Land Court and in Book 1494, Page 39 on file at the Registry of Deeds. The site is zoned Village Residential (VR).

Voting Toole, McCarthy, Koseatac, Thayer, Mondani
 Alternates None
 Recused Botticelli, O'Mara, Poor
 Documentation File with associated plans, photos and required documentation

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Representing **Steven Cohen**, Cohen & Cohen Law PC – The septic was installed without permit and it is no longer legal; it has to be replaced with a tight tank. Reviewed changes to the pre-existing, nonconforming structure that result in increase of groundcover. The main house outdoor shower with a floor encroaches into the setback. Explained why the outdoor shower is necessary.

Public None

Discussion (1:55) **Toole** – Would prefer not to bless the floored shower in the setback. Would need a step from the bedroom into the shower and that would also be in the setback.

McCarthy – Suggested the applicant not make the shower a structure so that it doesn't require a variance. Discussion about the other parts of the variance request.

Cohen – Asked for a continuance.

Motion **Motion to Continue to June 9.** (made by: McCarthy) (seconded by: Koseatac)

Vote Carried unanimously

5. 16-16 Todd W. Winship & Elizabeth W. Winship and Bess W. Clarke, Tr., Sixteen Monohansett Road Trust

16 Monohansett Road

Wilson

Applicant is seeking relief by Variance pursuant to Zoning By-law Section 139-32 for a waiver of the ground cover ratio provisions in Section 139-16. Specifically, applicant seeks to validate enclosure of pool cabana breezeway which resulted in total ground cover ratio of 4.2% where 4% is maximum allowed. The Locus is situated at 16 Monohansett Road, is shown on Assessor's Map 79 as Parcel 143, and as Lot 29 upon Plan File 11-A. Evidence of owner's title is in Book 1503, Page 322 on file at the Nantucket County Registry of Deeds.

The site is zoned Limited Use General 2 (LUG-2).

Voting Toole, Botticelli, McCarthy, O'Mara, Koseatac

Alternates Poor, Thayer, Mondani

Recused None

Documentation File with associated plans, photos and required documentation

Representing **John Brescher**, Glidden & Glidden – Relief is to validate a cabana to be converted into tertiary dwelling resulting in exceeding the groundcover based upon a hardship. The Planning Board approved the tertiary dwelling based upon ZBA approval. As an open cabana, it didn't count for groundcover.

Elizabeth Winship, owner – The work has been done and someone is living there.

Public None

Discussion (2:10) **Toole** – The cabana has been made into a 3rd dwelling without a permit; now they are seeking a permit.

McCarthy – This is a dwelling for year-round occupancy with only a toilet and no shower. This is not a legal dwelling.

Botticelli – Asked how much of the building is over the groundcover.

Brescher – The structure is 506 square feet; 180 square feet is over maximum groundcover.

Discussion about the work done on the main house and changes to the cabana.

McCarthy – Asked why a permit wasn't sought at time the work to the cabana was done; she doesn't understand why the work wasn't done under permit. The hardship would be the reason for the variance.

Toole – Stated he is disinclined to grant the relief.

Motion **Motion to Continue to June 9.** (made by: Botticelli) (seconded by: Koseatac)

Vote Carried unanimously

6. 17-16 Nantucket Memorial Airport

WITHDRAWAL AS A MATTER OF RIGHT AND WITHOUT PREJUDICE

Voting Toole, Botticelli, McCarthy, O'Mara, Koseatac

Alternates Poor, Thayer, Mondani

Recused None

Documentation File with associated plans, photos and required documentation

Representing None

Public None

Discussion None

Motion **Motion to Accept the withdrawal.** (made by: Botticelli) (seconded by: O'Mara)

Vote Carried unanimously

IV. OTHER BUSINESS

1. 66-00 Abrem Quarry (40B)
Discussion of draft Monitoring Services Agreement between Nantucket Zoning Board of Appeals and Nantucket Housing Authority and NHA Properties *d/b/a* Housing Nantucket.
- Voting Toole, Botticelli, McCarthy, O'Mara, Koseatac, Poor, Thayer, Mondani
Documentation File with associated plans, photos and required documentation
Representing **Anne Kuszpa**, Housing Nantucket – The monitoring agreement wasn't properly executed. Housing Nantucket would like to be the monitoring agent for Abrem Quarry. The first resale of a 40B unit will be happening in the very near future and there is a strict timeline that must be met. The monitoring agent could get up to 2.5% of the resale price; the lottery agent gets 3%. The monitoring agent doesn't get paid until there is a sale. The recorded documents were incorrectly done. Needs the board to say it okay to charge up to 2.5% then she works it out with Town Counsel.
- Discussion (2:23) **Toole** – Housing Nantucket is supposed to be the monitoring agent.
Antonietti – She has requested a legal opinion that came back with the ruling that Housing Nantucket is the correct monitoring agent.
Discussion about the charge and how it would be calculated dependent upon the sales price.
Ms Antonietti is directed to proceed with legal counsel.

V. ADJOURNMENT

Motion to Adjourn: 2:38 pm.

Submitted by:
Terry L. Norton