



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, June 9, 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; Mike Burns; Traffic Planner; Marcus Silverstein, Zoning Enforcement Officer (ZEO); T. Norton, Town Minutes Taker
Attending Members: Toole, Botticelli, McCarthy, O'Mara, Koseatac, Poor, Thayer, Mondani
Absent: None
Late Arrivals: None
Early Departures: McCarthy, 4:59 p.m.; Botticelli, 5:51 p.m.; Thayer, 6:00 p.m.
Town Counsel: Ilana Quirk, Kopelman & Paige, P.C.
ZBA Consultants: Ed Marchant, 40B (call in); Nancy Doherty, TetraTech, Inc.; Ed Pesce, Pesce Engineering & Associates
Agenda adopted by unanimous consent

I. APPROVAL OF MINUTES

1. May 11, 2016: **Motion to Approve.** (made by: O'Mara) (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, McCarthy, Koseatac
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
Lloyd Bristol, Bristol Traffic Engineering
Margaret Murphy, Atlantic Development

Public Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP
Mary Beth Ferro, 104 Surfside Road
Judy Zurheide, 1 Folger Avenue
Jack Benjamin, Gladlands Road
Jessica Davis, 108 Surfside Road
Jane Valero, 9 Gladlands Road

Discussion **MacKinnon** – Looking to cover traffic, wastewater systems, and concepts for alternative plans.
Bristol – This traffic analysis is based upon the original 56 unit plan; reviewed the ingress/egress point sight distances, generating 35 to 50 vehicles during peak hours, internal turning radii, inclusion of a fire access road.

Doherty – Reviewed her study of applicant traffic analysis: ingress/egress point is appropriate, they looked at other intersections of interest, comfortable with the level of analysis, hours and season of review were appropriate, utilized a standard 5-years planning horizon but best practices in Massachusetts is to look out seven years, used 1% growth rate, did not include traffic generated from Sachem's Path or new elementary school, daily trip generation was included, distribution based on existing traffic flow, indicates trips will increase volume at intersections by 3%, operations analysis shows south-bound approach would increase delay 3 second in the morning and 16 second evening. Single access driveway is appropriate. New north side crosswalk design is fine but not seen how it will connect to existing bike path. Important to see design of new east side bike path to analyze its impact; there would be a lot of clearing necessary and retaining walls would be necessary. Sight lines and stopping distance are good; not convinced the north sight line is good. Suggest supplying on-site secure bike storage and a bulletin board of bike paths.

Toole – Confirmed Ms Doherty feels the applicant's study is acceptable. In terms of sight-line issues, asked what is necessary to fix it.

Doherty – A concept plan of what Surfside will look like north of the driveway: signage, retaining, profile.

Toole – Asked if there is any thought of making this a 4-way intersection to make the crosswalk more efficient vis-à-vis the addition of the new bike path.

Doherty – Not necessary; doing that would add to congestion.

Koseatac – We need a legible plan of the fire-truck turning radii; the plan in the packet and on line are illegible.

Poor – Asked how viable is the Bartlett Road Rotary.

Burns – Explained the status of the projected Bartlett Road Rotary, programmed for FY2019.

Toole – The vegetation the applicant is talking about removing is not on their property. Asked if that is okay.

Burns – Cited the Town bylaw about clearing vegetation to maintain public safety.

Ferro – What was not addressed is that the Town has taken over the Boulevard which has already shown an increase in traffic and the Richmond Development project on Old South Road potentially cutting through to the Boulevard, which would further increase traffic. People drive Surfside Road very quickly. Behind this site is the Beach Plum 40B which is in Phase II; that was not included in the analysis. Being done in August, the analysis did not take school traffic in account.

Toole – With regard to future development, asked the method for taking that into account.

Doherty – The figures came from Planning; not sure if the question of any prospective project was asked. It was correct to do the study in the summer months. The Sachem Path entry is north of this site so probably won't affect this intersection. She is not familiar with the possibility of any new roadway connections south of the project.

Botticelli – Feels school traffic is also a valid point.

Discussion about whether or not school traffic would have an impact on the traffic flow.

Toole – Believes there are potential holes in the study that need to be tightened up. Would like to have school traffic added to the study.

Doherty – The applicant had offered to add Sachem's Path and school as well.

Zurheide – Cited Sherburne Commons expansion and moving of Our Island Home (OIH) to South Shore Road. There has also been an increase in commercial traffic for a development in the area and that was not mentioned in the study.

Doherty – Noted that any information about future projects comes from Planning.

Burns – There are counters out every year which are tracked; 1% growth is reliable based on past growth over the long term. OIH and the expansion of Sherburne Commons are pending right now and have to be looked at; the other projects were taken into account. He doesn't believe pattern changes will be very significant.

Benjamin – Questions the accuracy of the traffic study for Saturday in August. The queue on the road on Saturday and Sunday in August can extend about ½ mile. He would like to hear the police speak to traffic congestion on Saturday and Sunday afternoons in July and August.

Davis – The traffic Report did not take into consideration that Boulevard will be paved and thus increase traffic. The development on Old South Road will be massive and also needs to be taken into consideration.

Valero – The traffic study isn't measuring the pedestrians and bikes on the bike path.

Doherty – There were pedestrian and cyclist counts included in the study and are accounted for.

Bristol – Counts were taken Thursday, August 13, 6-9 a.m. and 11a.m.-1 p.m. and 3-6 p.m., and Saturday, August 15, 10 a.m. to 2 p.m. Pedestrians and cyclists were counted at each location.

Toole – Sounds like some important data is missing for the specific area: Saturday 10-2 most people are at the beach; need some additional work to catch people going to and from the beach. Should do a Saturday count as they would do a weekday count.

Botticelli – It would be interesting to know the increase of school traffic and new hospital; there is a lot happening in a very condensed area of the island.

Bristol – Volume at this intersection is very low; the Fairgrounds intersection is already stressed in the summer. In the fall, traffic counts drop, according to machine counts. Half the Fairground traffic doesn't turn south. The farther away from the project, the more options to turn off the road increase so they didn't include intersections beyond Bartlett Road.

Botticelli – Asked how 56 units would generate only 25 cars during peak time. Practically speaking, the traffic flow is different than what would be pulled out of a book; this will be occupied by families with children who can't afford to buy a home so could have multiple cars.

Bristol – Explained how data points are plotted for use in the analysis; noted that apartments everywhere generate less traffic than single-family houses.

Toole – Asked Ms Doherty if the data used is accepted and if there are ever studies done that are “outside the box”.

Doherty – Explained how a custom analysis would be done. Believes the manuals used for trip generation might be conservative. Noted that not everyone in a residence leaves at the same time.

MacKinnon – Explained the purpose of the traffic study. Based upon comments, there is some follow up that needs to be done with the study; can ensure entrances and exits and public safety are properly accommodated. Another part of the study is the level of impact and mitigation for that impact. Believes it is unreasonable to ask them to go back out to study traffic at school time and other things which requires seeking additional data; that is outside of the bounds of what is done on the Island. Need some direction on the bike path, whether or not they are going to do that.

O’Mara – Doesn’t argue the data of the study. There are a high percentage of houses out there that rent and Saturday is the turnover day. Sunday is a big beach day.

Doherty – Believes the impact of the apartments will still be higher on weekdays.

Burns – At the next meeting, offered to provide the actual traffic counts they gave the applicant.

Toole – Safety issues and impact study of the bike path need to be done before this board can make a decision.

MacKinnon – Wants Ms Doherty to rule on the safety. Believes the only safety issue is crossing Surfside road at this complex.

Doherty – She needs to see the concept plan for the path with sightlines impact, possible retaining walls, guardrails, etc. before she makes a safety ruling.

Toole – There is the question of safety in crossing the road at this site. The possibility of a 4-way stop at this intersection should be looked at.

MacKinnon – Reviewed what needs to be added to the traffic study.

Davis – Currently where the bike path ends at Fairgrounds Road, there is a crosswalk. At this site, there is no crosswalk.

MacKinnon – Moving on to the issue of wastewater, he still believes the best option is to connect to sewer and believes this board has the authority to allow them to connect. In the event they are required to go to Town Meeting, he will ask for a state permit for a treatment plant.

Swerling – Reviewed the Nantucket regulations for wastewater treatment in a well-head protection area and compared a conventional system to an Amphridrome® system, which can reduce the amount of nitrogen by about 90%. They don’t yet have a plan showing a soil-absorption system.

Pesce – He agrees with the methodology behind the documentation. The Amphridrome® system is an excellent system approved by the Department of Environmental Protection (DEP), which is the permitting authority rather than Title V. An on-site hydrologic study and design packet still need to be done for the DEP permit. He still needs to see how the leeching field will fit on the site and meet setback requirements. Because there is a private well in the neighborhood, he needs to see a nitrogen loading model that doesn’t exceed 10 parts per million (PPM) for nitrogen at the property boundary; he would also suggest installation of a monitoring well to ensure that PPM is not exceeded.

O’Mara – Asked about maintenance of the system.

Pesce – They would have to hire a licensed monitor to check the system daily.

Koseatac – Asked what about if the power went out for more than 24 hours.

Pesce – The system has to be protected by a back-up power supply; that energy plant is under the Department of public Work (DPW) to ensure it is in good operating order. DEP will technically review the plan for the treatment plant.

Toole – The science is out there to make this work with a DEP permit, assuming it fits and wells aren’t polluted.

MacKinnon – Some of the items Mr. Pesce is talking about is part of the DEP permit.

Toole – The wastewater would be approved contingent upon DEP permit. Sees no point in going further with this.

MacKinnon – They are still asking for permission to connect to sewer.

Toole – This board has three options: 1) the board agrees with Town Counsel they don’t have the authority to allow hook-up to sewer; 2) they disagree with Town Counsel and grant the relief to hook to sewer; 3) they continue the discussion about the project until they reach a point where they are comfortable enough about the project to support the notion to tie into sewer.

MacKinnon – Reviewed distances to homes on abutting properties. Changes include: reduction to 52 units, eliminate the pool and club house and on-site managers apartment, reduce grade manipulation, add a curb cut for fire trucks, increase the parking space size to 20’, increase parking ratio to two spaces per unit, add children’s recreational opportunities, and add the bike path to connect to the Fairgrounds Road bike path. Reviewed concept options of siting: Options 1 four apartment buildings at 45 feet tall, Option 2 one large apartment building at 50 feet tall and two 2-story 6-unit structures.

Toole – Asked which is more important, bedroom or unit count.

MacKinnon – You want a reasonable mix; the 52 units with 100 bedrooms is the lowest to make this economically feasible.

Toole – Asked if they had look at the option of doing all duplexes and thus creating a small village; he would be more interested in looking at setback waivers rather waiving 45-foot or 50-foot buildings. These buildings are still very tall and very out of place for Nantucket. The Option 2 massive building in the back is a non-starter. The “village” concept would

break up the massive parking areas. Cited Nobadeer Meetinghouse as a good example of a lot of bedrooms in a small space.

Discussion about the possibility of combining Option 1 with a village concept and the advantages of a village concept for green space and parking.

Poor – He believes the buildings are still too tall as presented in the two options.

Toole – Mr. Marchant had suggested a work session to brainstorm ideas.

MacKinnon – A design work session makes sense and would be willing to do that with a member of the ZBA. In the past they have worked with Matt MacEachern; asked if he would be acceptable.

Marchant – The board is clear in defining the issues, the work session would be best if before the session the applicant comes up with an alternative that is closer to what the board would like to see. Other 40Bs have come in with Nantucket village plans; noted that this plan doesn't resemble Nantucket at all. Density is relevant to whether or not people like the plans; it's not density for density sake. Most work sessions are closed proceedings but the public does not have a right to speak.

Quirk – 1) A public hearing with the public attending but not permitting public comment. 2) If there is just one member of the board, that doesn't need to be a posted meeting. The second way is easier to put together and it is not binding.

Schwartz – The second way is better.

Marchant – No decision can be made at the work session.

Zurheide – Asked for the board to consider including a member of the public as part of the work session.

Schwartz – They would like the neighborhood input.

Quirk – Should choose who will be part of the work session. The board should authorize the chair to approach the consultant.

Discussion about date for the work session and appointing the ZBA member and who the consultant might be.

Motion **Motion to Authorize Mr. Toole to call Cliff Boehmer to be a design consultant.** (made by: McCarthy) (seconded by: Botticelli)

Vote Carried unanimously

Quirk – The ZBA should authorize Mr. Toole to take names of interested public and appoint a participant.

Botticelli – Asked about having an HDC member on the board.

Consensus thinks and HDC member is an excessive level of detail

Motion **Motion to Authorize Mr. Toole to appoint the neighborhood representative from a list of interested people.** (made by: McCarthy) (seconded by: Botticelli)

Vote Carried unanimously

Toole – Getting close but feels a need to ask for an extension. September is two meetings away.

MacKinnon – Wants to stay on the current schedule.

Quirk – That puts a strain on the board doing the work in two sessions.

Schwartz – Agree to an extension to October 31, 2016

The date for the work session June 29 at 2 p.m. subject to availability of the design consultant.

Motion **Motion to Appoint Ms Botticelli as the representative and Mr. Poor as the backup.** (made by: McCarthy) (seconded by: O'Mara)

Vote Carried unanimously

Motion **Motion to Accept the extension to October 31, 2016.** (made by: Botticelli) (seconded by: O'Mara)

Vote Carried unanimously

Motion **Motion to Continue to July 14 at noon pending availability of the room.** (made by: McCarthy) (seconded by: O'Mara)

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). WITHDRAWAL WITHOUT PREJUDICE

Voting Toole, Botticelli, O'Mara, Poor, Thayer

Alternates Mondani

Recused None

Documentation File with associated plans, photos and required documentation

Representing **John Brescher, Glidden & Glidden** – They are requesting withdrawal without prejudice for the request for relief for 25.5 feet; they found a way to do it and keep the height at 25 feet.

Public Steven Cohen, Cohen & Cohen Law PC

Discussion (3:56) **Toole** – Doesn't agree with the ZEO who is here to discuss this so he is disinclined to grant the withdrawal. Consensus agrees with Mr. Toole.
 Discussion about how long does a grade have to exist before it is considered the beginning grade.
Poor – Looking back over the map, all four lots were filled to this grade. There is no grade change referenced in the Historic District Commission application. They didn't do what they should and it has snowballed. Believes the developer filled the lot, not the owner. Still would like the grade averaged out.
Silverstein – He believes the existing grade is established at the time the permitting process begins. There is nothing in the bylaw that prevents moving dirt around.
Toole – He believes the existing grade is set at the time the bylaw went into effect. The height maximum of the building would have to include using the average mean grade.
 Discussion about the bylaw and its intent.
 Discussion about at what point was the grade on this site manipulated and thus establishing existing grade and the possibility of submitting a by-law amendment stating no manipulation of grade may be done without a ZBA permit.
Brescher – The applicant changed the grade, the house is moving next week and will be no more than 25 feet on a muddblock foundation; his client has a building permit for that.
Toole – The house will be in violation; the applicant proceeds at his own risk.
Botticelli – She has no problem with approving this; she just wants the right information before voting on it.
O'Mara – It doesn't matter what the board thinks, he's got to come back anyway unless he eliminates 6 feet of grade.
Brescher – His is willing to extend the action deadline.
Cohen – Suggested getting a ruling from Town Counsel on this issue.
Toole – Talked to Town Counsel: ZBA can make policy so that it becomes a matter of record.
Silverstein – If the board is going to make a policy, be as specific as possible.
 Discussion about at what point the existing grade for this site was established: the implementation of the bylaw or establishment of the Goose Cove subdivision. The bylaw revised in 1994 and again in 1999.
 Motion **Motion to Grant relief for height of 28.6 based upon the fact that the site was at elevation six in 1994 at implementation of the bylaw.** (made by: Botticelli) (seconded by: O'Mara)
 Vote Carried 4-1//Toole opposed

3. 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 None
 Documentation File with associated plans, photos and required documentation
 Representing **Steven Cohen**, Cohen & Cohen Law PC – Reviewed the alterations which require only a special permit relief, not a variance relief. Believes these changes also satisfy the concerns of the abutter; doesn't know if that person has seen the changes.
 Public None
 Discussion (4:46) Discussion about whether or not the notification of abutters is sufficient and whether or not to err on the side of caution and continue to allow for a renotification.
 Motion **Motion to Continue for Renotice and re-open on July 14, 2016.** (made by: Thayer) (seconded by: Koseatac)
 Vote Carried unanimously

4. 16-16 Todd W. Winship & Elizabeth W. Winship and Bess W. Clarke, Tr., Sixteen Monohansett Road Trust
 CONTINUED TO JULY 14, 2016 16 Monohansett Road Wilson

III. NEW BUSINESS

1. 18-16 Janet Hanson 3 Pond Road Shalley
 Applicant is seeking modification of prior Variance relief in order to remove the condition that the second dwelling be restricted to year-round occupancy. Prior relief validated the siting of the garage structure within the front yard setback and the conversion of a portion of the garage into a second dwelling. No change in footprint is proposed. The Locus is situated at 3 Pond Road, is shown on Assessor's Map 56 as Parcel 151.1, and as Lot 132 upon Land Court Plan 14830-7. Evidence of owner's title is registered on Certificate of Title No. 23280 at the Nantucket County District of the Land Court. The site is zoned Residential 20 (R-20).

Voting Toole, Botticelli, O'Mara, Koseatac, Thayer
 Alternates Poor, Mondani
 Recused None
 Documentation File with associated plans, photos and required documentation
 Representing **Steven Cohen**, Cohen & Cohen Law PC – Explained the situation leading to the need for this request. Noted that the year-round restriction is very unusual and has nothing to do with the setback issue.
 Janet Hanson, owner
 Public Barbara Matteuci, 5 Pond Road
 Discussion (4:59) **Botticelli** – Asked if the applicant wants to use the cottage as a rental.
Matteuci – The problem is having two seasonal renters in both the front and the back of the same lot. Prefers it remain year-round housing; you can talk to that person but not to someone who is there for only a week.
Hanson – This property is for sale; she needs some clarity on the structure for the prospective buyer.
Cohen – Most prospective buyers would be a summer person and would want to use that structure for themselves or as an investment property. Noted that the year-round occupancy requirement is vague, severe, unusual, and doesn't resolve the setback issue.
Toole – This is saying that it can't be rented on a short-term basis. The way it's written does not require that it be rented to a year-round resident; he sees no reason to lift the relief.
Thayer – Agrees with Mr. Toole.
Cohen – Asked if the board would clarify that the restriction does not preclude casual use by the owner.
 Discussion about how to provide the clarification of that condition to allow casual use by the owner but if it is to be rented it must be to a year-round occupant.

Motion **Motion to Permit rental of the cottage may be for no less than 12 months.** (made by: O'Mara) (seconded by: Koseatac)

Vote Carried unanimously

2. 19-16 John Udelson 12 Pond View Drive Brescher
 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 the various structures upon the premises already granted Certificates of Occupancy but shown on most recent As-Built survey to have a total ground cover ratio of 4.1% where 4% is maximum allowed. The Locus is situated at 12 Pond View Drive, is shown on Assessor's Map 81 as Parcel 9, and as Lot 10 upon Land Court Plan 36550-C. Evidence of owner's title is registered on Certificate of Title No. 25177 at the Nantucket County District of the Land Court. The site is zoned Limited Use General 2 (LUG-2).

Voting Toole, Botticelli, O'Mara, Koseatac, Mondani
 Alternates Thayer
 Recused Poor
 Documentation File with associated plans, photos and required documentation
 Representing **John Brescher**, Glidden & Glidden – The issue is a ground cover survey discrepancy of 84 feet. All permits have been issued for at least six years. The pool doesn't add ground cover but the owner must close out the permit.
 Public None
 Discussion (5:24) **Botticelli** – Noted an air-conditioning unit might be in the setback on the north side of the garage; if it is, it needs to be moved.
 Discussion about what caused the mistake.

Motion **Motion to Grant the relief as requested.** (made by: Botticelli) (seconded by: Koseatac)

Vote Carried unanimously

3. 20-16 Gerald T. Vento & Margaret Vento, Tr. of Ninety-One Low Beach Road Nominee Trust 91 Low Beach Road Cohen
 Applicant is requesting Special Permit relief pursuant Zoning Bylaw Section 139-16.C(2) to validate unintentional side and rear yard setback intrusions. The siting of a tennis court, installed in 2012, was reasonably based on a licensed survey. The court is sited as close as 15.4 feet from the side yard lot line and 18 feet from the rear yard lot line, where a twenty (20) foot setback is required. In the alternative, and to the extent necessary, Applicant requests relief by Variance pursuant to Section 139-32 to allow said setback intrusions. The Locus is situated at 91 Low Beach Road, is shown on Assessor's Map 75 as Parcel 31, and as Lot 912 upon Land Court Plan 5004-65. Evidence of owner's title is registered on Certificate of Title No. 24350 at the Nantucket County District of the Land Court. The site is zoned Limited Use General 3 (LUG-3).

Minutes for June 9, 2016, adopted Aug. 11

Voting	Toole, Botticelli, Koseatac, Thayer, Mondani		
Alternates	Poor		
Recused	O'Mara		
Documentation	File with associated plans, photos and required documentation		
Representing	Steven Cohen , Cohen & Cohen Law PC – Explained the situation leading to this request for special permit relief. Jeff Blackwell, Blackwell & Assoc.		
Public	None		
Discussion (5:32)	Koseatac – The builder of the tennis court must be contacted about doing work without proper permits. Toole – Asked Mr. Blackwell how much space the court takes up. Blackwell – The court is 16X120 so not unusually large and intrudes 4.5 feet on the side setback. Mondani – Feels the owner should move the court. Thayer – He is willing to grant the relief but doesn't want to set a precedent. Botticelli – She is disinclined to grant the relief; the court should be moved. Poor – In the past this board has suggested renegotiating the property line. Cohen – That request is a heavy burden on the owner just for a game court. Noted that the neighbor isn't complaining. Asked that the request to be granted. Discussion whether to grant or continue to see how much would have to be changed and what it would cost to make the court compliant.		
Motion	Motion to Continue to July 14, 2016. (made by: Botticelli) (seconded by: Koseatac)		
Vote	Carried unanimously		
4. 21-16	William Pietragallo, II, Tr. of The 2013 Freedom Trust	9 Fulling Mill Road	Beaudette
	Applicant is requesting a finding that a proposed generator enclosure is substantially below grade and, therefore, does not contribute towards ground cover. In the alternative, applicant requests either Special Permit relief pursuant to Zoning Bylaw Section 139-33.A(2) or Variance relief pursuant to Section 139-32 for a waiver of the ground cover ratio provisions in Section 139-16. The Locus is situated at 9 Fulling Mill Road, is shown on Assessor's Map 27 as Parcel 25, and as Lot 3 upon Land Court Plan 14311-K. Evidence of owner's title is registered on Certificate of Title No. 24827 at the Nantucket County District of the Land Court. The site is zoned Limited Use General 3 (LUG-3).		
Voting	Toole, O'Mara, Koseatac, Poor, Mondani		
Alternates	None		
Recused	None		
Documentation	File with associated plans, photos and required documentation		
Representing	Rick Beaudette , Vaughan, Dale, Hunter and Beaudette, P.C. – Presented the situation leading to this request. Noted that most structures on this side of the road are undersized lots and over ground cover. It would be a substantial financial hardship to build a new generator pit. Jamie Feeley, Cottage and Castle Construction Jeff Blackwell, Blackwell & Assoc. Jim Gross, Nantucket Land and Sea		
Public	Steven Cohen, Cohen & Cohen Law PC, for direct abutter Sarah Alger, Sarah F. Alger P.C.		
Discussion (5:54)	Toole – He doesn't understand why the generator has to be enclosed. Gross – Explained the proposed generator needs to be in a water-tight enclosure. Poor – Asked if the original enclosure constitutes ground cover and is it being made bigger. Beaudette – Yes and it will increase groundcover to 7%. Toole – He can't see granting a variance. Cohen – His client supports this request as better for the neighborhood; it will have a much lower decibel noise level. Asked for a condition that this space not become habitable space in the future. Beaudette – All the neighbors were notified in regards to this plan. Alger – This is a bylaw issue; it clearly meets the 2015 bylaw requirements allowing granting of the special permit. Feeley – The architect miscalculated the relationship between the generator and the house thus requiring a larger generator. Explained how the pit will be modified to additionally reduce the generator noise. Toole – This situation is the result of "confused" planning; doesn't see it as punitive to restrict the size of future sheds.		
Motion	Motion to Grant the relief for Special Permit conditioned that any future shed be limited to 131 square feet. (made by: O'Mara) (seconded by: Koseatac)		
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.

Sitting Toole, O'Mara, Koseatac, Poor, Mondani

Discussion (6:27) **Antonietti** – She will be drafting the Monitoring Services Agreement with the 2.5% fee.

V. ADJOURNMENT

Motion to Adjourn: 6:29 p.m.

Submitted by:

Terry L. Norton