



# ZONING BOARD OF APPEALS

2 Fairgrounds Road  
Nantucket, Massachusetts 02554  
[www.nantucket-ma.gov](http://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 ~~

**Tuesday, September 20, 2016**

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

Called to order at 1:05 p.m.

Staff in attendance: Eleanor Antonietti, Zoning Administrator; T. Norton, Town Minutes Taker

Attending Members: Toole, Botticelli, McCarthy, O'Mara, Koseatac, Thayer, Mondani

Absent: Poor

Late Arrivals: None

Early Departures: None

Motion to Approve the Agenda as amended. (made by: Koseatac) (seconded by: Botticelli) Carried unanimously

## I. APPROVAL OF MINUTES

1. September 8, 2016 Motion to Approve. (made by: Koseatac) (seconded by: McCarthy) Carried unanimously

## II. OLD BUSINESS

1. 20-16 Gerald T. Vento & Margaret Vento, Tr. of Ninety-One Low Beach Road Nominee Trust  
**CONTINUED TO OCTOBER 13, 2016** 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).

Voting Toole, McCarthy, O'Mara, Koseatac  
Alternates Thayer, Mondani  
Recused None  
Documentation File with associated plans, photos and required documentation  
Representing Steven Cohen, Cohen & Cohen Law PC  
Public None  
Discussion **Botticelli** – Stated she won't be here October 13<sup>th</sup>.  
Motion **Motion to Approve the continuance.** (made by: Botticelli) (seconded by: Thayer)  
Vote Carried unanimously

## III. NEW BUSINESS

1. 24-16 6 Lily Street LLC & Sconset Partners LLC 6 and 8 Lily Street Dale  
**CONTINUED TO OCTOBER 13, 2016**

Applicant is requesting Special Permit relief pursuant Zoning By-law Section 139-33 to reduce the area of 6 Lily Street without creating any new non-conformities and to enlarge the area of 8 Lily Street to allow for a new dwelling with a reduced side yard setback non-conformity. To the extent necessary, applicant further requests Site Plan Review pursuant to Section 139-23. Both properties are improved undersized lots of record. In the alternative, and to the extent necessary, Applicant requests relief by Variance pursuant to Section 139-32 from the provisions of Section 139-16. The properties are located at 6 and 8 Lily Street, are shown on Assessor's Map 73.3.1 as Parcels 109 and 110, and as Lot 5 and portion of Lot 7 upon Plan No. 2014-02. Evidence of owners' titles are in Book 1415, Page 296 and Book 1415, Page 287 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Old Historic (SOH).

Voting Toole, McCarthy, O'Mara, Koseatac  
Alternates Thayer, Mondani  
Recused None  
Documentation File with associated plans, photos and required documentation  
Representing Kevin Dale, Vaughan, Dale, Hunter and Beaudette, P.C.  
Public None  
Discussion None  
Motion **Motion to Approve the Continuance.** (made by: Botticelli) (seconded by: O'Mara)  
Vote Carried unanimously

2. 32-16 Alan A. Shuch, Trustee of the Ann F. Shuch Qualified Personal Residence Trust  
**CONTINUED TO OCTOBER 13, 2016** 45 Quidnet Road Alger

Applicant is seeking Special Permit relief under By-law Section 139-33.A(1)(a) to extend, alter, or change a pre-existing, non-conforming ancillary structure used as a studio and beach changing area by raising it up above the flood plain so that it no longer floods and adding stairs necessary for access. To the extent necessary, Applicant also seeks a modification of the Board's decision in File No. 007-96 to allow for such work. The Locus is situated at 45 Quidnet Road, is shown on Assessor's Map 21 as Parcel 21, and is Lot 23 on Land Court Plan 8853-L. Owner's title is evidenced by Certificate of Title No. 21927 at the Nantucket Registry District. The site is zoned Residential-20 (R20).

Voting Toole, McCarthy, O'Mara, Koseatac  
 Alternates Thayer, Mondani  
 Recused None  
 Documentation File with associated plans, photos and required documentation  
 Representing Sarah Alger, Sarah F. Alger P.C.  
 Public None  
 Discussion None  
 Motion **Motion to Approve the Continuance.** (made by: Botticelli) (seconded by: O'Mara)  
 Vote Carried unanimously

3. 33-16 Susan A. Wager 3 Meader Street Brescher

Applicant is seeking Special Permit relief pursuant to Zoning By-law Section 139-33.A in order to alter the pre-existing nonconforming dwelling on the pre-existing nonconforming lot. The existing dwelling is sited within the easterly side yard setback. The alterations consist of raising the building to install a new foundation as well as conforming additions. As so altered, the structure will be no closer to the easterly lot line and will remain conforming as to height. In the alternative, and to the extent necessary, applicant seeks Variance relief from the provisions of Section 139-16. The Locus, an undersized lot of record, created pursuant to M.G.L. Chapter 41 Section 81L, situated at 3 Meader Street, is shown on Assessor's Map 42.2.3 as Parcel 39, and as Lot 1A in Plan File 2013-15. Evidence of owner's title is registered in Book 1389, Page 220 on file at the Registry of Deeds. The site is zoned Residential Old Historic (ROH).

Voting Toole, McCarthy, O'Mara, Koseatac, Botticelli  
 Alternates Thayer, Mondani  
 Recused None  
 Documentation File with associated plans, photos and required documentation  
 Representing **John Brescher**, Glidden & Glidden – The structure and locus are pre-existing, non-conforming. The structure is 0.7 feet from the side yard lot line. They are lifting the structure for a new foundation due to being in a flood plain, this will increase the height 4 feet to 17 feet 1¾ inches; none of the additions are within the setback but add a total of 72 square feet (SF) of ground cover; contends that this is not substantially more detrimental to the neighborhood. Noted that an existing shed is moving out of the setback.  
 Steve Theroux, Nantucket Architecture Group Ltd  
 Public None  
 Discussion (1:09) **Botticelli** – Confirmed that the roof is getting raised on the west side outside of the setback.  
**O'Mara** – Asked why this needs relief; it is staying under the 30-foot limit.  
**Brescher** – The height is increasing in the setback.  
**Theroux** – They are restricted by the Historic District Commission (HDC) to go up no more than the minimum height necessary. The flood plain was confirmed by Blackwell and Associates; the first floor is at the flood line 9.25 feet.  
**O'Mara** – In the “old days”, if a building was being detached from a foundation, the owner had to get approval for the number of days the building was unattached; that is no long necessary.  
**Antonietti** – They are altering a pre-existing, non-conforming structure.  
**Botticelli** – That old rule was for a building going back onto its foundation at the original elevation. They are going up four feet within the zoning setback. The site plan has the minimum flood elevation in the upper left corner; they are giving the floor three inches.  
**Theroux** – Noted that they plan to start construction in November early December and be done before Memorial Day 2017.  
 Motion **Motion to Grant the relief as requested with the standard dates restricting exterior construction restricted between Memorial Day and Labor Day.** (made by: Botticelli) (seconded by: O'Mara)  
 Vote Carried unanimously

4. 34-16 Polpis Harbor, LLC 248 & 250 Polpis Road Cheney
- Applicant is seeking Special Permit relief pursuant to Zoning By-Law Section 139-33.A to allow the change of use of a pre-existing nonconforming garage structure to a pool house/cabana. The existing structure is sited within the easterly front yard setback. The proposed alterations will result in a decrease in size such that the structure's footprint and massing will not increase within the setback area. The Locus is situated at 248 and 250 Polpis Road, is shown on Assessor's Map 26 as Parcel 27, as Lot A-7 upon Land Court Plan 13443-E and as Lot A-3 upon Land Court Plan 13443-D. Evidence of owner's title is registered on Certificate of Title No. 25343 at the Nantucket County District of the Land Court. The site is zoned Limited Use General 3 (LUG-3).
- Voting Toole, Botticelli, McCarthy, Thayer, Mondani
- Alternates None
- Recused O'Mara, Koseatac
- Documentation File with associated plans, photos and required documentation
- Representing **Kevin Dale**, Vaughan, Dale, Hunter and Beaudette, P.C. – The property is 8.18 acres in size. The garage has been on the tax records since 1956 and the studio is dated to 1890. The garage footprint will be reduced; there will be no increase to the con-conformity. They have Conservation Commission approval and HDC approval for the work.
- Public None
- Discussion **Thayer** – Asked if the retaining walls and building will remain in the same spot. Asked if the height is changing.  
**Dale** – The reduction in groundcover is from the removal of a small addition; the ridge height will remain the same.  
**Botticelli** – This looks like it will have a new foundation but there is no information on how that work will be done; she would like to know the scope of work.  
**Dale** – He will check whether or not it is getting a new foundation.  
**Toole** – We don't have the before grade, only the after. His concern is whether or not the building will be exactly where it is now in relation to height.  
**Dale** – His understanding is it will be exactly as it is now except for the removal of the 460 SF.  
**Botticelli** – Suggested the approval be conditioned on the height remaining the same; the height is currently 18 feet from grade.  
**Toole** – It is hard to read the plan and ascertain whether or not a grade change will change the height.  
**Dale** – The HDC insists that the current grade be maintained.  
**Botticelli** – The grade is 33.95; for the pool they are cutting into the grade to 32.42.  
**Toole** – He would like the decision to include the fact that the grade is not changing; you've said it is staying the same.  
**Dale** – Asked for the board to approve the construction in accordance with the HDC approved plans. We're reducing the footprint of the building.  
**Botticelli** – The existing threshold is 19.6 feet; the pool deck is now at 16 feet. It is a lot easier to have the existing conditions on the plans.
- Motion **Motion to Grant the relief as requested.** (made by: Botticelli) (seconded by: McCarthy)
- Vote Carried unanimously

#### IV. OTHER BUSINESS

None

#### V. ADJOURNMENT

Motion to Adjourn: 1:36 p.m. (made by: Mondani) (seconded by: O'Mara) Carried unanimously

Submitted by:  
 Terry L. Norton