



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 9, 2017

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

Called to order at 1:07 p.m.

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

Agenda adopted by unanimous consent

I. APPROVAL OF MINUTES

1. January 12, 2017: **Motion to Approve.** (made by: Koseatac) (seconded by: Botticelli) Carried unanimously
2. January 17, 2017: **Motion to Approve.** (made by: Koseatac) (seconded by: Botticelli) Carried unanimously

II. OLD BUSINESS

1. 41-16 Linda Mason, Applicant, & Anne G. Davis And Paul A. Gares, Owners 23 Monomoy Road Beaudette
CONTINUED TO MARCH 9, 2017

III. NEW BUSINESS

1. 36-16 Loren H. Kroll and Norma J. Goldman 24 Coffin St. Beaudette

REQUEST TO WITHDRAW WITHOUT PREJUDICE

Applicant is requesting Special Permit relief pursuant Zoning By-law Sections 139-30.A and 139-16.C(2) to validate an unintentional side yard setback intrusion caused by the siting of a porch 9.5 feet from the side yard lot line abutting West Sankaty Street, where a ten (10) foot setback is required pursuant to Section 139-16.C(3). In the alternative, and to the extent necessary, Applicant requests relief by Variance pursuant to Section 139-32 to allow said setback intrusion. The Locus is situated at 24 Coffin Street, is shown on Assessor's Map 73.4.1 as Parcel 52, as Lot 2 upon Plan No. 2012-37. Evidence of owner's title is in Book 1456, Page 168 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Residential 1 (SR-1).

Voting 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 without prejudice.** (made by: Koseatac) (seconded by: Botticelli)
 Vote Carried 4-0

2. 40-16 Sankaty Head Golf Club 100 Sankaty Road Dale
- Applicant is requesting modification of prior Special Permit relief to alter and expand a pre-existing nonconforming use in order to construct four new duplex cottages to be used for on-site employee housing pursuant to Zoning By-law Section 139-33A(1). The proposed work will meet all dimensional and parking requirements of the By-Law. Applicant also requests a modification of prior Variance relief pursuant to Zoning By-law Section 139-32 to allow for duplex dwelling units in each cottage or, in the alternative, a primary dwelling unit and accessory apartment in each cottage. The locus is situated at 100 Sankaty Road, is shown on Nantucket Tax Assessor's Map 49 as Parcel2, and as Lot 2A on Land Court Plan 9548-C. Evidence of owner's title is registered as Certificate of Title No. 1308 in the Nantucket County District of the Land Court. The site is zoned Limited Use General 3 (LUG-3).
- Voting Botticelli, McCarthy, Koseatac, Thayer, Mondani
- Alternates Poor
- Recused Toole, O'Mara
- Documentation File with associated plans, photos and required documentation
- Representing **Kevin Dale**, Vaughn, Dale, Hunter and Beaudette P.C. – This is to allow for the construction and use of four, employee-housing, duplexes. Per the board's requests from January 12, he has provided an access plan from Sankaty Road, design plans eliminating the dormers, and the application has been re-noticed. There was discussion of relocating the housing closer to Sankaty Road with access over the 90 Sankaty Road; presented the alternative site plan at the table. Reviewed the benefits to this resiting to include possibly connecting them to Town sewer. Since the majority of the housing is for seasonal employees without cars, they are asking for a waiver for a 5-car reduction from the required 24 parking spaces. Reviewed the duplex design plan eliminating the dormer; presented the revised architectural drawings at the table. Noted that there was a prior variance issued with the finding of the unique situation of providing housing; this modification would allow these four to expand upon that. They are willing to accept a condition that the dwellings are for Sankaty employees and their families only and none of the four units can be sold separately.
- Public None
- Discussion (1:10) **Antonietti** – The parking waiver was not part of the re-notification; they would need to come back for that.
Poor – Apparently the use per zoning is not allowed on site. Referred to §139.32-B disallowing a variance.
Dale – Duplex is not a use, it is a type of dwelling; uses is usually confined to residential or commercial use. To segregate duplex as a specific kind of use does not comport with the principal definition of use in the bylaw. An alternative is to earmark each as a principal dwelling with an accessory apartment; that strains the definition of accessory apartment.
Poor – The duplex is actually safer by virtue of the fire ratings required for single family dwellings versus duplexes.
Mondani – Asked about neighborhood input.
Dale – They haven't received anything specific; the concern is, however, that the relief is being sought in the winter when the neighbors aren't here. That is the reason they were situated away from Isobels Way.
Thayer – Asked about limitations on occupancy.
Dale – The intent is to limit the upstairs unit to senior employees and their families with no more than three or four seasonal employees in each basement units. Suggested limiting each individual unit to no more than six occupants. The club standard is one person per bedroom.
Thayer – Asked about limiting the occupancy and effect on the on-site septic.
Dale – There would be two systems, one for each duplex. The new location might allow for hooking up to Town sewer; they need to look into the force main and then would go to Town Meeting to include the site in the sewer district.
Koseatac – Likes limiting the occupancy to six employees per unit, which is two people per room.
 Consensus agrees.
Mondani – His concern is that the duplexes are not used for guests of the club.
- Motion **Motion to Grant both special permit and variance relief extending the pre-existing, non-conforming use to allow for duplex structures with the conditions occupancy is limited to six employees per unit and the duplexes are for employees and their families only and the units are not for resale; they are to submit a modified site plan showing 24 parking spaces** (made by: Koseatac) (seconded by: McCarthy)
- Vote Carried 5-0

3. 05-17 141 Main Street, LLC 141 Main Street Dale
- Applicant is seeking relief by Special Permit pursuant to Zoning By-law Section 139-33.A to remove and reconstruct a pre-existing nonconforming in-ground residential swimming pool to be relocated from the westerly side to the northerly (rear) side of the dwelling. The Locus is otherwise dimensionally conforming. The Locus is situated at 141 Main Street, is shown on Assessor's Map 41 as Parcel 172, upon Plan No. 2005-61. Evidence of owner's title is in Book 1566, Page 331 on file at the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).
- Voting Botticelli, McCarthy, O'Mara, Koseatac, Poor
 Alternates Thayer, Mondani
 Recused None
 Documentation File with associated plans, photos and required documentation
 Representing **Kevin Dale**, Vaughn, Dale, Hunter and Beaudette P.C. – Request is to relocate a pre-existing, non-conforming in-ground swimming pool, which has been on the property since at least 1960s. In 2011, Town Meeting prohibited in-ground pools in the Old Historic District; the rationale was most of the lots are small. HDC has approved the removal of the existing and installation of the new pool and the Building Department has issued a permit. There is a bordering vegetated wetland and so we are going through the Conservation Commission; they asked for testing to ascertain the ground water level; ground water is at 7.5 feet; presented a copy of the letter confirming the water level at the table. Proposed new location won't be substantially detrimental to the neighborhood.
- Public None
 Discussion (1:33) Discussion about when this property was zoned ROH and when the pool was initially installed.
Poor – There is a net gain of 64 square feet in the size of the new pool.
O'Mara – There is a property on Pleasant Street which was approved for a similar special permit.
- Motion **Motion to Approve as requested with no exterior construction between Memorial Day and Labor Day.** (made by: Botticelli) (seconded by: McCarthy)
- Vote Carried 5-0

IV. OTHER BUSINESS

1. 051-03 Rugged Scott, LLC Rugged Scott *a/k/a* Beach Plum 40B Humphrey
- The Applicant seeks a determination that proposed changes to the architectural plans approved with the Comprehensive Permit, as amended, may be considered insubstantial pursuant to 760 CMR 56.05 (11)(a)(b), and as such, may be authorized by the Zoning Board of Appeals. The proposed changes consist of the installation of an in-ground spa upon Market Rate Lot 2, also known as 3 Wood Lily Road, of the 40B development known as Beach Plum Village.
- Voting Botticelli, O'Mara, McCarthy, Koseatac, Thayer
 Alternates Poor, Mondani
 Recused None
 Documentation File with associated plans, photos and required documentation
 Representing **Jamie Feeley**, owner – There would be an arborvitae hedge along both property lines and the spa will have a have a 25-foot setback. He's asking the ZBA to act as the HDC in this case since the lot is still under construction.
- Public None
 Discussion (1:50) **Antonietti** – Certain architectural features unless deemed insubstantial would require the hearing be reopened. If deemed insubstantial pursuant to 760 CMR 56, and according to Comprehensive Permit, a letter would be drafted to the Building Commissioner confirming approval of this architectural modification. This is a first of its kind; she didn't find any requests similar to this in any of the other 40Bs. If he had the Certificate of Occupancy, he would have to go to HDC.
O'Mara – He doesn't believe that the building inspector will accept the spa cover as adequate in lieu of a fence.
Feeley – A fence for a spa is not required by code. However, he is willing to run a wire fence around the property.
Antonietti – Given pools and spas were never included in the Comprehensive Permit, the board could require the spa get HDC approval. Her letter wouldn't have the specific details a HDC Certificate of Approval would have.
 Discussion about whether or not this is insubstantial; consensus feels it is insubstantial.
Botticelli – The letter should include that there will be a wire fence along the property line.
 Discussion about whether the cover is adequate or if there should be a wire fence hidden inside the hedge.
Antonietti – If she is going to issue a letter, she would like to have a plan that is HDC compliant to attach to the letter.
 Review of HDC-compliant plan to be referenced in the letter; a site plan will be developed to be attached to the letter.
- Motion **Motion to Determine that this is insubstantial and approve issuance of a letter with attachment of a site plan showing details of the code-compliant fence and gate, the pool coping, and arborvitae hedge.** (made by: Botticelli) (seconded by: McCarthy)
- Vote Carried 5-0

V. ADJOURNMENT

Motion to Adjourn: 2:10 p.m.

Submitted by:
 Terry L. Norton