



Planning and Land Use Services

Building ▪ Historic District Commission ▪ Planning Board ▪ Zoning Board of Appeals

Date: 11/8/2022
To: Zoning Board of Appeals
From: Billy Saad
Land Use Specialist
RE: Staff Report for 10-13-22 ZBA Meeting

I. APPROVAL OF THE MINUTES:
▪ September 8, 2022

Staff reviewed the minutes. We recommend approval.

II. OLD BUSINESS (CONTINUED PUBLIC HEARINGS AND VOTES MAY TAKEN)

09-22 Harris on Weweeder, LLC

50 Weweeder Avenue

Brescher

Sitting: SM, EA, MO, GT, MP

Applicant is seeking a variance pursuant to Zoning Bylaw Sections 139-16A and 139-32 to exceed the maximum allowable ground cover ratio of 7% and to reduce the side yard setback from 10 feet to 2.7 feet only where it applies to the proposed pool cabana. Locus is situated at 50 Weweeder Avenue, shown on Assessor's Map 79 as Parcel 15 and upon Land Court Plan 42927-A. Evidence of owner's title is registered on Certificate of Title No. 27684 on file at the Nantucket County District of the Land Court. The site is zoned Limited Use General 1 (LUG-1).

The Board requested to view the property to assess the current state of the proposed cabana structure. The Board has also requested the applicant provide both Building and HDC files to lay out a timeline for applications and approvals of structures located on the property.

If the Board is inclined to approve the application, the decision would have to meet the threshold (established by MGL 40.A § 10 and locally per Section 139-32.A) which requires that the Board: [...] specifically finds that owing to circumstances relating to soil conditions, shape or topography of such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this chapter would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such bylaw.

III. NEW BUSINESS (INITIAL PUBLIC HEARINGS AND VOTES MAY BE TAKEN):

37-21 Kristina & Nicholas Amendolare

8 Bank Street

Williams

Sitting: SM, LB, GT, MO, EA

Applicants are seeking a Special Permit pursuant to Zoning Bylaw Sections 139-30 and 139-33A to make renovations, including an addition, to a single-family dwelling that is pre-existing non-conforming to the setbacks. Locus is situated at 8 Bank Street, shown on Assessor's Map 73 and Parcel 69. Evidence of owner's title is recorded in Book 1770, Page 216 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Old Historic (SOH).

The applicant has provided the requested materials from the May 12, 2022 meeting: drilling method, MRCE Report, details for the protection of Middle Gully Rd stone wall abutting the west elevation of 8 Bank St, list of home planning to survey, Blackwell survey of Gardners fence, landscape plan, updated drawings by architect, excavation quote. Staff has not received a review from the DPW.

If the Board is inclined to approve the application, you will need to make the finding that "such extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure and/or use to the neighborhood" and that "... the nonconforming setback distance is not made more nonconforming" and "that the extension will not be substantially more detrimental to the neighborhood than the existing nonconformity".

Multiple letters in opposition were received and are included in your packet.

10-22 Paul P. Moran & Jean M. Moran

4 Washington Ave

Santos

Applicants are seeking Special Permit relief pursuant to Nantucket Zoning By-law Sections 139-30 and 139-2 in order to install an in-ground swimming pool. Locus is situated at 4 Washington Avenue, shown on Assessor's Map 60.2.4 as Parcel 65 and upon Land Court Plan 14672-A. Evidence of owner's title is registered on Certificate of Title No. 27684 with the Nantucket County District of the Land Court. The site is zoned Village Residential (VR).

The applicant provided a detailed description of the proposed work, which is included in your packet.

Swimming pools are permitted by special permit in the VR district subject to the following standards listed in Zoning Bylaw Section 139-2A (Definitions):

SWIMMING POOL - RESIDENTIAL

A structure designed to be used for recreational purposes, either above or below grade, containing water more than 24 inches in depth and exceeding 150 square feet of water surface area, or exceeding 1,000 gallons. This shall not include ornamental ponds, decorative water features, including, but not limited to, fountains, bird baths, and the like. The swimming pool must be located on the same or contiguous lot as a residential dwelling or constructed for the benefit of a group of residences, such as a multifamily development, subdivision, or in conjunction with a neighborhood association. In the VR District only, the Zoning Board of Appeals, acting as the special permit granting authority, may grant a special permit to allow a residential swimming pool on a lot, subject to the following criteria being met: (1) the lot must meet or exceed the minimum lot size for the district, and (2) side and rear yard setbacks of 20 feet shall apply to the residential swimming pool and associated mechanical equipment.

Further, Section 139-30 (Special Permits)

- A.** The special permit granting authority shall be the Board of Appeals for all special permits, except those special permits for which the Planning Board is specifically designated by any provision of this chapter. In instances where any portion of a project involves a special permit application to the Planning Board for an apartment, apartment building, elder housing facility, medical marijuana treatment center, recreational marijuana establishment, neighborhood employee housing, secondary dwelling, or tertiary dwelling all pursuant to § 139-2, business commercial, commercial industrial, and industrial uses as categorized in the "Use Chart" pursuant to § 139-7A, residential development options pursuant to § 139-8, and for certain uses in the Public Wellhead Recharge District pursuant to § 139-12B, the Planning Board shall serve as the special permit granting authority for all other special permits required in connection with such project.
- (1)** The special permit granting authority shall issue special permits for structures and uses which are in harmony with the general purpose and intent of this chapter subject to the provisions of such chapter.
- (2)** Such permits may impose conditions, safeguards and limitations intended to ensure that the use or structure is in harmony with the general purpose and intent of this chapter.

Staff notes that the proposal meets the standards. Sample conditions are included below for your review.

- a. All chemical treatments of the pool water shall stop three weeks prior to any draining or discharging of the pool. If this is not feasible, the owner shall engage a professional company to discharge the pool water in a tanker and dispose of it at the Wastewater Treatment Facility.
- b. If a municipal water source is not available, the owner shall engage a professional company to fill the pool, as needed.
- c. The pool shall not be chemically treated between November 1 and May 1 of any given year.
- d. The location of the pool, landscaping, and lighting shall be installed substantially as shown on the Site Plan provided.
- e. Exterior lighting in the pool area shall be in conformity with the provisions of Chapter 102 of the Town Code for outdoor recreational lighting.
- f. All work shall be done in substantial conformity with the Site Plan provided and in conjunction with the HDC Certificate of Appropriateness.

****Placement of mechanical equipment associated with the pool shall be subject to contingencies at the board's discretion****

15-22 Christopher Quick

15 Delaney Rd

Kristen Gagalis

Applicant is appealing the Building Commissioner's September 21, 2022 determination pursuant to Zoning Code Section 139-31A-(1) and Massachusetts General Laws Chapter 40A, Sections 8 and 15. The Building Commissioner determined that use of the Property for short-term rentals ("STR") does not violate Nantucket's Zoning Bylaw. Locus subject to the appeal is situated at 15 Delaney Road, shown on Assessor's Map 30 as Parcel 635 and upon Land Court Plan 14695-C. Evidence of the owner's title is registered on Certificate of Title No. 25803 with the Nantucket County District of the Land Court. The site is zoned Residential 1 (R1). **CONTINUED TO 12/8**

16-22 Dean & Alba Cestari

2 Nautilus Ln

Williams

Applicants are seeking Special Permit relief pursuant to Nantucket Zoning Bylaw Section 139-16C(1) (Intensity regulations – setback) in order to reduce rear yard setback from 10 feet to 8 feet to construct a 10' x 19' in-ground pool. Locus is situated at 2 Nautilus Lane, shown on Assessor's Map 67 as Parcel 176.2 and lot 166 upon Land Court Plan 34507-26. Evidence of the owner's title is registered on Certificate of Title No. 28810 with the Nantucket County District of the Land Court. The site is zoned Residential 10 (R-10).

**The applicant is seeking relief pursuant to By-law Section 139-16.C(1) which reads:
Notwithstanding the provisions of § 139-16C(4), the Board of Appeals may grant a special permit to reduce the ten-foot side yard setback in R-5 and the ten-foot side and rear yard setback in R-10, R-20 and SR-20 to five feet.**

Applicant is proposing to construct a pool inside the existing southwesterly (rear) setback of the Locus. The Locus is compliant with R-10 zoning, having a lot area of 10,004 SF. The existing structures upon the Locus comply with the 20' front and 10' side and rear setbacks. The applicant seeks a reduction of the 10' rear setback to 8' to allow the construction of a 10' x 19' in-ground pool. Applicant has also noted the existence of a 6' fence along the rear lot line that shields the area of the proposed pool. A "BUILDING AS-BUILT PLAN" with the proposed pool is on page 491 of the packet.

One letter from the direct abutter of the rear lot line was received in support of this request and is included in your packet.

Staff recommends that – if the Board is inclined to grant the requested relief, said relief be conditioned that no further expansion within the 10' setback without returning to the Board.

IV. ADJOURNMENT (VOTE WILL BE TAKEN)
