

29-21 CRH 46 Surfside LLC
Halik

46 Surfside Rd

Continued to February 10,2022

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

31-21 James A. & Susan G. Genthner, Trustees of the James A. Genthner Trust and the Susan G. Genthner Trust

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 rear yard setback from 10 feet to 5 feet only where it applies to the proposed new dwelling. Locus is situated at 128 Surfside Road, shown on Assessor's Map 80 as Parcel 299.1 and as Lot 3 upon Land Court Plan 40394-B. Evidence of owner's title is registered on Certificate of Title No. 28319 on file at the Nantucket County District of the Land Court. The site is zoned Limited Use General 1 (LUG-1).

FROM THE 12-09-21 Staff Memo:

The applicant provided a detailed description of the proposal, which is included in your packet. The request is to grant a variance to allow the ground cover of the property to TEMPORARILY increase above 7% pending the finalization of a land conveyance from the Town of Nantucket to the applicant. Staff notes that the applicant was awarded the paper streets surrounding their property in May of 2013. Since that time, the legal work necessary to finalize the transaction has been stalled at the Land Court, through no inaction of the applicant. The Board has reviewed applications for other applicants with similar situations and has acted favorably.

The finding the Board will need to make to approve the variance is that "owing to circumstances related to soil conditions, shape or topography of such land or structures and especially affecting 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 a 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".

Staff recommends approval of the request.

UPDATE:

The applicant submitted a revised application to include relief for ground cover as well as setbacks. The hearing was re-noticed both in the I&M and to the abutters. A new site plan is included in your packet.

As stated in the last report, the applicant has been in the process of acquiring the paper streets abutting her property for about a decade. She was awarded the property through the RFP process associated with the Yard Sales Program and has made a good-faith effort to close the deal, which unfortunately is delayed at the Land Court. The Genthner's plans for the property have been on hold during this time. The Yard Sales Program is initiated by the Town, not a property owner, and staff feels strongly that you should grant the variances necessary to allow her to move forward with her plans while waiting on transaction to the finalized.

38-21 Brett Stephen Morneau & Sarah Morneau 7 Goldfinch Dr

Brescher Applicants are seeking a Special Permit pursuant to Zoning Bylaw Sections 139-30 and 139-16. C.(1) in order to reduce the ten (10) foot side yard setback to five (5) feet to site an addition to the premises. Locus is situated at 7 Goldfinch Drive and shown on Assessor's Map 68 and Parcel 504. Evidence of owner's title is registered on Certificate Title No. 27995 with the County District of the Land Court. The site is zoned Residential 5 (R5).

The Applicant's are seeking to reduce the 10 foot side yard setback on the west side of the structure to about 5.1 feet in order to accommodate an addition that has been approved by the HDC. The applicant provided a detailed description of the proposed work, which is included in your packet. The location of the proposed addition being less than 10 feet from the side yard lot line is consistent with other structures in the Naushop neighborhood.

Section 136-16C(1) of the Bylaw is pasted below:

- (1) 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.**

Further, Section 139-30 (Special Permits) states the following:

- 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.***