

1. Planning Board Staff Report 03.14.2022

Documents:

[03-14-22 STAFF REPORT.PDF](#)



Nantucket Planning Board

STAFF REPORT

March 11, 2022

To: Planning Board

From: Megan Trudel,
Land Use Specialist

Re: Staff Report for March 14, 2022 Planning Board Meeting

Call to order:

Approval of the agenda:

Brief Recess to Convene “NP&EDC” Meeting

Minutes:

- January 10, 2022
- January 24, 2022

Note: The applications and plans submitted for secondary dwellings, garage apartments, tertiary dwellings, and ANR have all of the relevant information, which is easily identifiable, that was previously outlined in the staff report narrative. In addition to the application and proposed site plan, included with your packet is a draft approval letter for each of the secondary dwellings, garage apartments, tertiary dwellings that outlines conditions.

All applications have been thoroughly reviewed by staff for compliance.

Criteria for Secondary Dwellings:

- Confirmation that a secondary dwelling is allowed by right in that zoning district (and/or subdivision if applicable)
- Adequacy of access
- 10ft scalar separation
- 80/20 compliance
- Parking calculations
- Apron and driveway dimension requirements

Criteria for Garage Apartment (no applications on this agenda)

- Garage Apartments are permitted in all districts pursuant to the “Use-Chart”
- Adequacy of access
- That the living area does not exceed 150% of the garage area (if it did it would be a secondary dwelling and not a garage apartment)
- Parking calculations
- Apron and driveway dimension requirements

Criteria for Tertiary Dwelling (no applications for this agenda)

- Confirmation that a tertiary dwelling is allowed by right in that zoning district (and/or subdivision if applicable)
- Adequacy of access
- Parking calculations
- Apron and driveway dimension requirements
- Confirmation of which unit on the site will be owner occupied or owned by a non-for-profit, religious, or educational entity, or shall be subject to a restriction limiting occupancy to a year-round household
- Compliance with the maximum bedroom count (only applicable for tertiary dwellings in the R-5, R-10, & R-20 zoning districts)
- Confirmation that the unit does not exceed 650 square feet of gross floor area

*****RECOMMEND MOTION*****

Motion to approve ALL of the secondary dwelling applications on the agenda with any findings and/or conditions as written in the draft approval letters included with your packet (*pull any application(s) from this motion that the Board feels may require further discussion or if there are any applications where a Board member must recuse*).

Secondary Dwellings:

- **Gonadi Prokopov, 80 Surfside Road (Map 67 Parcel 194)**
- **Plamon Dimitrov, 3 Weatherly Place (Map 67 Parcel 950)**
- **Darlene DeMichel, Trs, 14 North Mill Street Lot 26-42885-F (Map 55.4.4 Parcel 80.2)**
- **BigACK LLC, 8 Meadow View Drive (Map 56 Parcel 147)**
- **Christopher Oberg, 35 Gloucester Street (Map 76.4.2 Parcel 97)**
- **Johnson Irrevocable Trust, 28 Longwood Drive (Map 71 Parcel 38)**
- **20A Bishops Rise Investors LLC, 20A Bishops Rise (Map 40 [northerly portion] Parcel 127)**
- **20B Bishops Rise Investors LLC, 20B Bishops Rise (Map 40 [southerly portion] Parcel 127)**
- **CMR 11 Osprey LLC, 11 Osprey Way (Map 82 Parcel 3)**
- **Oliver Carr III, 84 Cliff Road (Map 30, Parcel 74.1)**
- **15 Flintlock Road, LLC, 15 Flintlock Road (Map 75, Parcel 90)**

*****RECOMMEND MOTION*****

Motion to approve and endorse ALL ANR applications on the agenda, except 15 Folger Ave and 19 Folger Ave, which first require approval of the Special Permit.

ANR

- **Andrew V. Vorce, 40 & 40 ½ Essex Road (Map 67 Parcel 624)**

Representation: Jeff Blackwell

The purpose of this plan is to implement a previously approved Secondary Residential Lot Special Permit. Planning staff recommends endorsement.

- **Richard S. Leone, 7 Bayberry Lane (Map 67 Parcel 61)**

Representation: Teddy King

The purpose of this plan is to approve minor changes required by the Land Court on the previously endorsed ANR (which implemented a Special Permit for a Rear Lot Special Permit). Planning staff recommends endorsement.

- **Randolph P. Norris, Trustee Norris Family Trust, 9 Bayberry Lane (Map 67 Parcel 62)**

Representation: Jeff Blackwell

The purpose of this plan is to implement a previously approve Rear Lot Subdivision Special Permit. Planning staff recommends endorsement.

- **Two High LLC, 2, 4 & 6 Highland Avenue (Map 30 Parcels 187, 288 & 289)**

Representation: Dan Mulloy

The purpose of this plan is to reconfigure lot lines between the properties. No new lots are being created. Planning staff recommends endorsement.

- **Allura M. Duffy, Trustee, 85 Fairgrounds Road (Map 67 Parcel 185)**

Representation: Teddy King

The purpose of this plan is to divide an existing buildable lot (1) into two (2) buildable lots. Planning staff recommends endorsement.

- **Benjamin P. Moore Revocable Trust, 15 Folger Avenue (Map 80 Parcel 154)**

SEE PUBLIC HEARING

- **Karlton A. Phillips & Suzanne L. Riddle, 19 Folger Avenue (Map 80 Parcel 110)**

SEE PUBLIC HEARING

Previous Plans:

- **#6700 Marylin Lane Subdivision, Form J (Lot 1)**

Representation: Linda Williams

The Applicant is requesting the final lot be released. This subdivision was initially approved in 2003. Lot 1 was never requested to be released because there was an existing dwelling on the property. In order to be eligible for a building permit, this lot must be formally released. Planning

staff recommends endorsement of the Form J.

- **Maple Lane Subdivision**, *request for minor modification*

Representation: Dan Mulloy

The Applicant is requesting a minor modification of the previously granted AR Subdivision to make various site changes. A full list of requested changes is included with your packet.

It is the opinion of Planning staff that all of the requested changes are minor, except #3, which proposes to change the width of the pedestrian connection. The Board discussed this at length at the public hearings for the subdivision. Condition 12 of the decision states:

That a pedestrian connection shall be constructed at the Applicant's expense connecting Maple Lane to Cachalot Lane. The path shall be constructed of material that is of impervious surface and shall be between 6'-8' in width. A 15' wide easement encompassing the path shall be presented to the Town of Nantucket. All easements shall be recorded prior to the release of the final lot.

A public hearing would be required to modify this specific condition. The Board should discuss with the Applicant whether or not they would be open to amending this condition, and if so, the Applicant will need to come back to a future meeting and hold a public hearing.

Planning staff recommends approving the Applicant's request, with the exception of #3, with the following finding:

- 1) That the proposal does not materially affect the findings and conclusions upon which the original decision and subsequent modifications were based, and therefore does not require a public hearing.

Public Hearings:

- **Kian W. Ross, 16 Trotters Lane**, *action deadline 06-12-2022*

Representation: Don Bracken

The applicant is requesting a Special Permit to create a secondary residential lot for year-round residents. The covenant lot will be proposed Lot A, which has approximately 6,967 square feet of lot area. The proposed market rate lot, Lot B has approximately 13,487 square feet of lot area. Both lots will be accessed by a shared driveway with an entrance on Trotters Lane, a public, paved roadway of sufficient width, suitable grade and adequate construction. There are no additional waivers requested.

Planning staff recommends approval of the Applicant's request as proposed, with the following findings and conditions:

Findings:

- 1) That the proposal advances the intent of the zoning bylaw by creating housing for year- round residents;

Conditions:

- 1) That proposed Lot A shall be subject to a Nantucket Housing Needs Covenant Ownership form, which shall provide without limitation, that owners and any occupants of any dwelling thereon, shall earn at or below

- 150% of the Nantucket County median household income;
- 2) That Lot B may be allowed a Secondary Dwelling (Tertiary Dwelling standards) and that Lot A shall be restricted to a single dwelling;
- 3) That the total ground cover ratio for both lots shall not exceed the amount otherwise allowed for the original lot (25%), or as otherwise specified in 139-8C; and
- 4) That an Approval Not Required (ANR) plan to establish each lot is a necessary step to implement this permit.

• **Karlton A. Phillips & Suzanne L. Riddle, 19 Folger Avenue, *action deadline 06-12-2022***

Representation: Mike Connolly

The applicant is requesting a Special Permit to create a secondary residential lot for year-round residents. The covenant lot will be proposed Lot 2, which has approximately 16,001 square feet of lot area. The proposed market rate lot, Lot 1 has approximately 27,558 square feet of lot area. Both lots will be accessed by a shared driveway with an entrance on Folger Avenue, a private, unpaved roadway of sufficient width, suitable grade and adequate construction. There are no additional waivers requested.

Planning staff recommends approval of the Applicant's request as proposed, with the following findings and conditions:

Findings:

- 1) That the proposal advances the intent of the zoning bylaw by creating housing for year- round residents;

Conditions:

- 1. That proposed Lot 2 shall be subject to a Nantucket Housing Needs Covenant Ownership form, which shall provide without limitation, that owners and any occupants of any dwelling thereon, shall earn at or below 150% of the Nantucket County median household income;
- 2. That Lot 1 may be allowed a Secondary Dwelling (Tertiary Dwelling standards) and that Lot 2 shall be restricted to a single dwelling;
- 3. That the total ground cover ratio for both lots shall not exceed the amount otherwise allowed for the original lot (7%), or as otherwise specified in 139-8C; and
- 4. That an Approval Not Required (ANR) plan to establish each lot is a necessary step to implement this permit.

○ **ANR -19 Folger Avenue**

The purpose of this plan is to implement the Secondary Residential Lot Special Permit. Planning staff recommends endorsement.

• **Benjamin P. Moore Revocable Trust, 15 Folger Avenue, *action deadline 06-12-2022***

Representation: Mike Connolly

The applicant is requesting a Special Permit to create a secondary residential lot for year-round residents. The covenant lot will be proposed Lot 2, which has approximately 16,001 square feet of lot area. The proposed market rate lot, Lot 1 has approximately 27,558 square feet of lot area. Both lots will be accessed by a shared driveway with an entrance on Folger Avenue, a private, unpaved roadway of sufficient width, suitable grade and adequate construction. Additionally, the Applicant is requesting a waiver of the ground cover ratio requirement for the secondary lots, provided that the total ground cover, ratio does not exceed the amount that would have been allowed for the original lot. It is noted that there is 519 sq ft remaining.

As confirmed by the Applicant, the second structure on the market rate lot contains a garage/workshop on the first floor and a 612 sq ft apartment on the second floor.

Planning staff recommends approval of the Applicant's request as proposed, with the following findings and conditions:

Findings:

- 1) That the proposal advances the intent of the zoning bylaw by creating housing for year- round residents;

Conditions:

1. That proposed Lot 2 shall be subject to a Nantucket Housing Needs Covenant Ownership form, which shall provide without limitation, that owners and any occupants of any dwelling thereon, shall earn at or below 150% of the Nantucket County median household income;
2. That Lot 1 may be allowed a Secondary Dwelling (Tertiary Dwelling standards) and that Lot 2 shall be restricted to a single dwelling;
3. That the ground cover ratio requirement for the secondary lots shall be waived, provided that the total ground cover, ratio does not exceed the amount that would have been allowed for the original lot (7%), or as otherwise specified in 139-8C; and
4. That an Approval Not Required (ANR) plan to establish each lot is a necessary step to implement this permit.

o **ANR -15 Folger Avenue**

The purpose of this plan is to implement the Secondary Residential Lot Special Permit. Planning staff recommends endorsement.

• **Lori A. Geddes, 13 Evergreen Way, *action deadline 06-12-2022***

Representation: Marianne Hanley/Paul Santos/Lori Geddes

The Applicant is requesting a Special Permit for a Rear Lot Subdivision. An AR Subdivision has been filed with the Town Clerk and the appeals period has concluded, therefore the property eligible for conversion to a Rear Lot Subdivision.

Proposed Lot 438A will contain approximately 40,016 square feet and Proposed Lot 438B will

contain approximately 40,016 square feet. Both lots will have frontage and access on Evergreen Way. The site is zoned R-40.

Planning staff recommends approval of the Applicant's request as proposed, with the following findings and conditions:

Findings:

- 1) That the applicant's proposal complies with the requirements for a Special Permit under §§139-8E, "Rear Lot Subdivision", as amended at the 2019 Annual Town Meeting, of the By-Law; and
- 2) That the proposal is in harmony with the general purpose and intent of the Bylaw.

Conditions:

- 1) Both lots shall connect to municipal sewer and water systems;
- 2) That each lot shall comply with the ground cover ratio, front setback, and side and rear yard setback requirement of the underlying R-40 zoning district, or as otherwise specified in 139-8E;
- 3) That the filing of an ANR (Approval Not Required) plan is a necessary step to implement this Special Permit.

• **Piece of the Pie, LLC, 14 Spearhead Drive, *action deadline 06-12-2022***

Representation: Art Gasbarro

The Applicant is requesting a Special Permit for the use of two (2) storage containers on the site. The site is located within the CI zoning district and has approximately 5,003 square feet of land area.

Planning staff recommends approval with the following findings and conditions:

Findings:

- 1) That the use of two (2) storage containers on the site is consistent with the CI zoning district pursuant to sections 139-7A and 139-2 of the Bylaw; and
- 2) That the request is in harmony with the general purpose and intent of the Bylaw.

Conditions:

- 1) That screening shall be installed that is consistent with the proposed site plan;
- 2) That the containers are located within substantial compliance with the proposed site plan;
- 3) That the storage containers shall only be utilized for storage purposes; and
- 4) That the driveway entrance shall be brought into compliance with 139-20.1 within ninety (90) days of the filing of this decision.

• **Sabrina Dawson and Gavin Norton "Keepers Restaurant" Modification #1, 5 Amelia Drive, *action deadline 06-12-2022***

Representation: Linda Williams

The Applicant is proposing to modify the existing "MCD" Special Permit to eliminate an existing interior take-out space and increase the currently permitted 104 seats by 31 seats for a total of 135 seats. It is noted that the use at a large restaurant is pre-existing non-conforming to

the RC-2 zoning district.

The Applicant is also requesting a waiver of the onsite parking requirement. Nineteen spaces are currently provided on-site. The increase in seating requires ten additional parking spaces under the existing CN zoning. It should be noted that there is a public Town parking lot with a connection immediately adjacent to the site.

Planning staff recommends approval of the Applicants request as proposed with the following finding:

- 1) That the proposal is in harmony with the general purpose and intent of the Bylaw;
- 2) That granting relief of the parking requirement is not contrary to sound traffic or safety considerations.

- **ACK Mid Island, LLC & ACK Offices, LLC, 18, 18A, 20, 22, 24 & 26 Sparks Avenue, *action deadline 05-10-2022***

VOTING: John Trudel, Dave Iverson, Nat Lowell, Barry Rector, Fritz McClure

From the February 14, 2022 Staff Report:

Representation: Dan Mulloy

The Applicant is requesting a Major Commercial Development “MCD” for a multi-use development. Included with your packet is a proposed site plan, conceptual architectural renderings, and a chart of proposed uses.

The proposal is very preliminary at this point and the Applicant may be required to make significant changes to the aesthetics of the buildings as reviewed by the HDC. A multi-department coordinated review will be scheduled after this initial hearing.

The Board should discuss with the Applicant the proposed site plan and the proposed uses on the site.

UPDATE:

The Applicant has requested to present new working concepts to the Board for feedback. A plan will be presented by the Applicant via screen share at the meeting.

- **Champoux Housing, LLC, 4 Raceway Drive, *action deadline***

Representation: Art Gasbarro

The Applicant is proposing a four (4) lot, three (3) buildable lot AR Subdivision at 4 Raceway Drive. The site is currently located in the RC-2 zoning district (and is not subject to a zoning change at this year’s Annual Town Meeting).

Lot 1 contains approximately 6,001 square feet, Lot 2 contains approximately 5,529 square feet, and Lot 3 contains approximately 5,059 square feet. All three lots will have access across the roadway lot from Raceway Drive, a paved, public roadway of sufficient width, suitable grade and adequate construction. A complete list of requested waivers is included in the packet for review.

Planning staff recommends approval of the Applicant’s request, but that the Board should discuss with the Applicant, in lieu of granting certain waivers, an appropriate contribution to area bike and

pedestrian path infrastructure and improvements and consideration to gifting the roadway lot to the Town of Nantucket.

Finding:

- 1) That the Applicant's proposal is in harmony with the general purpose and intent of the *Rules and Regulations Governing the Subdivision of Land*.

Conditions:

- 1) That recorded copies of all legal documents such as (Covenant, Statement of Conditions, Grant of Right of Enforcement, Homeowners Association) shall be presented to the Planning Board within six (6) months of the filing of the decision;
- 2) That the Homeowner's Association shall be funded in the amount of \$1,000 per lot. Proof of funding shall be submitted to the Planning Board prior to the release of the final lot;
- 3) That the definitive plan shall be presented to the Planning Board within six (6) months of the filing of the decision;
- 4) That each lot shall comply with the ground cover ratio, front setback, and side and rear yard setback requirements of the underlying RC-2 zoning district; and
- 5) That no lot shall be eligible for release or a construction permit until the Town's consulting engineer has reviewed and approved all relevant documents submitted by the Applicant.

• **Nanahumacke Preserve Modification #1, off Nanahumacke Lane & Part of 141 Hummock Pond Road, *action deadline***

Representation: Arthur Reade

The Applicant is proposing an Amendment to the Nanahumacke Preserve Major Residential Development "MRD" so that a portion of 141 Hummock Pond Road may be connected to 11 Nanahumacke Lane. The two parcels are held in common ownership but are currently separated by a strip of land controlled by the Homeowner's Association. In exchange for the land needed to connect the two parcels, the property owner will be transferring what is shown as Lot 24 (and highlighted in blue on the plan in the packet) to the Homeowner's Association.

The land swap between the HOA and Nanahumacke, LLC will not take any land out of the Conservation Restriction "CR", but will add to it. Lot 21, connecting Lots 16 and Lot 3, will remain subject to the CR and Lot 24 will be added to the area subject to the CR.

It is noted that the Land Council holds the Conservation Restriction for the Nanahumacke Preserve Subdivision, has been involved with the process, and is supportive of the Applicant's request as proposed.

Planning staff recommends approval of the Applicant's request as proposed with the following finding:

- 1) That the request is in harmony with the purpose and intent of the Bylaw.

• **Great Harbor Yacht Club Modification #12, 56 Union Street, action deadline 06-12-2022**

Representation: Steven Cohen

The Applicant is requesting to expand their “MCD” Special Permit to include newly acquired property at 56 Union Street. The Applicant proposes to operate the former restaurant as a place for passive recreation for Club Members.

The Applicant anticipates that the space will have some tables, a coffee station, and a pool table. It will be available for remote work and general meeting space. Additionally, the existing kitchen and bar facilities will remain to provide limited dining and beverage service.

The Board should discuss in further detail the anticipated uses and operations with the applicant, how the proposed changes may potentially impact the area in terms of traffic and parking during day time activities, where the prior use of the building was primarily in the evening (when there is less vehicle traffic along the route to Town and the boats). Also, the Board should discuss whether the units previously utilized as employee housing will continue to serve as employee housing to Club staff. The Board should also discuss with the Applicant potential conditions such as hours of operation, exterior lighting, and noise. Finally, the Board should consider what site plan updates to the overall MCD should be submitted for consideration.

• **27 Fair Street, LLC, 27 & 29 Fair Street, action deadline 04-30-2022**

******Note that although this matter has been listed on prior agendas, the public hearing has not opened.***

From the November 15, 2021 Staff Report:

Representation: Sarah Alger

The Applicant is requesting a Special Permit for a pre-existing non-conforming use of a Lodging, Rooming, or Guest House for a site within a quarter mile radius of the CDT. The Applicant proposes to renovate both structures. The Special Permit will replace the previous ZBA decisions (included in the packet). *Please note that this is NOT an MCD due to Hiller’s Lane running between the two properties.*

At 27 Fair Street, the Applicant proposes to renovate the front building. Additionally, the Applicant is proposing to demolish the existing single-family dwelling at the rear of the site to replace with three conforming structures containing guest rooms. The existing four (4) onsite parking spaces will remain the same.

At 29 Fair Street, the Applicant proposes interior and exterior renovations and to enclose an interior court yard, which will increase the groundcover and construct a patio ~~for outdoor dining~~. The Applicant **is not** requesting to increase the dining capacity, which was previously set at 45 seats.

- There are currently 45 seats approved in the restaurant, the Applicant proposes that 45 seats shall remain
- There are currently 17 units, the Applicant proposes 18 units (increase by 1)
- There are currently 24 bedrooms, the Applicant proposes 19 bedrooms (decrease by 5)

The Board should discuss with the Applicant concerns expressed by the neighbors as they apply to the Board's judgment of evaluating the application for a Special Permit under the zoning bylaw. The Board should also evaluate the following three criteria using the Powers test (*Powers v Building Commissioner of Barnstable*)

- 1) The non-conforming use may be enlarged, as long as the increased use is attributable to the growth of the original non-conforming use.
- 2) "The degree of specificity with which the Zoning Bylaw prohibits the particular extension and, absent specific mention therein, on the general permissiveness of the by-law towards extension of the nonconforming uses.
- 3) A non-conforming use may be improved and make more efficient as long as the changes are "ordinarily and reasonably adapted to the original use and do not constitute a change in the original nature and purpose of the undertaking.

UPDATE:

The Applicant has submitted a revised site plan as well as a proposed Management Plan for the Board's consideration. Pursuant to the proposed Management Plan, there will be no outdoor dining, no exterior music (amplified and non-amplified), and alcoholic beverage service will be limited to table service. Both documents are included with the packet for review.

- **Catherine Dean Schulman, Trustee, 48 West Miacomet Road, action deadline 06-12-2022**

Representation: Paul Santos

The applicant is requesting a modification to an existing Special Permit to construct a pool/spa and expand the decking. The previously granted Special Permits allowed for alterations to the preexisting non-conforming dwelling, a new shed, decking and hardscaping.

The site has approximately 67,996 square feet of land area and is located in the MMD zoning district. The plan provided shows a 20 x 40 pool with surrounding patio/decking and an adjacent spa. The proposed placement will be in an already disturbed area of the property and would also require Conservation Commission approval.

In order to approve the application, the Board must be able to make the following finding:

- 1) That the siting of the proposed pool, which has been sited away from known or suspected habitats of endangered plant and animal species both on and off site, minimizes potentially adverse effects on the moorlands environment and its scenic integrity and maximizes the protection of such species, as the area where the proposed pool is to be sited is already a disturbed area.

Conditions that are consistent with other MMD pool/spa Special Permits include:

- 1) The construction of the pool shall be substantially in accordance with the proposed site plan;
- 2) Throughout the construction process, the Applicants shall maintain a construction fence that identifies the limit of work and prevents any intrusion into the undisturbed areas of the Locus;

- 3) Any temporarily disturbed areas will be restored, as close as is reasonably practical, to the condition that they were in immediately prior to the disturbance;
- 4) Upon the completion of the Project, the Applicants shall submit to the Planning Board an as-built plan showing all site improvements. An inspection shall be completed by Planning Staff prior to the final sign-off by the Building Commissioner for the Project to ensure compliance with this Decision.

Public Comment:

Other Business:

- Adoption of Codified Regulations

Adjournment: