

1. Planning Board Staff Report 05.07.21

Documents:

[05-10-2021 STAFF REPORT.PDF](#)



Nantucket Planning Board

STAFF REPORT

May 7, 2021

To: Planning
Board

From: Megan Trudel,
Land Use Specialist

Re: Staff Report for May 10, 2021 Planning Board Meeting

Call to order:

Approval of the agenda:

Minutes:

- **September 14, 2020**
Recommended motion to approve the September 14, 2020 minutes

- **October 26, 2020**
- **November 18, 2020**
Continue to the June 14, 2021 meeting

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

Motion to approve ALL of the secondary dwelling and garage apartment applications on the agenda with any findings and conditions outlined in the Staff Report (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).

Second Dwellings:

- **111 Surfside LLC, 111 Surfside Road (Map 80 Parcel 70)**

Representation: Dmitri Kapalis

The applicant is proposing to construct a one (1) bedroom secondary dwelling. The second dwelling will have approximately 487 square feet of ground cover and will be located on the southern portion of the site, which has approximately 42,534 square feet of lot area and is

zoned LUG-1. The proposed five (5) bedroom primary dwelling will have an approximate ground cover of 1,873 square feet.

Both dwellings will be accessed by a reconfigured shell driveway with an entrance on the common gravel roadway off of Gladlands Ave. The driveway will contain six (6) 9' x 20' exterior parking spaces and two (2) 9' x 20' interior parking space (four (4) parking spaces are required on the site). The plan, as submitted, meets the requirements of Zoning Bylaw Sections 139-18 and 139-20.1.

The Applicant has indicated that Conservation Commission approval is not required prior to the issuance of a building permit.

Planning staff recommends approval with the following conditions

- 1) That a minimum of four (4) parking spaces shall be provided;
- 2) That the driveway be cleared free of vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet;
- 3) That any landscaping at the driveway entrance be limited to low growing plant material not to exceed three (3) feet in height;
- 4) That the applicant shall submit an As-Built prior to the final inspection by staff which shall take place prior to the issuance of a Certificate of Occupancy.

▪ **Hugh Johnston & Kelly Mahon Johnston, 76 Polpis Road (Map 43 Parcel 177)**

Representation: Randy Sharp

The applicant is proposing to convert an existing garage/studio to a one (1) bedroom secondary dwelling. The second dwelling will have approximately 332 square feet of ground cover and will be located on the eastern portion of the site, which has approximately 63,146 square feet of lot area and is zoned LUG-3. The five (5) bedroom primary dwelling, which is currently under construction, will have an approximate ground cover of 1,923 square feet.

Both dwellings will be accessed by a reconfigured gravel driveway with an entrance on Polpis Road, a public, paved roadway of sufficient width, suitable grade and adequate construction. The driveway will contain four (4) 9' x 20' exterior parking (four (4) parking spaces are required on the site). The plan, as submitted, meets the requirements of Zoning Bylaw Sections 139-18 and 139-20.1.

The Applicant has indicated that Conservation Commission approval is not required prior to the issuance of a building permit.

It is noted that the Applicant has obtained ZBA relief to replace pre-existing non-conforming structures and may maintain ground cover up to 2,293 square feet.

Planning staff recommends approval with the following conditions

- 1) That an apron at the driveway intersection with Polpis Road shall be installed and

maintained with a minimum depth of ten (10) feet, a minimum width of ten (10) feet and a maximum width of fifteen (15) feet, flared to a width not to exceed nineteen (19) feet;

- 2) That a minimum of four (4) parking spaces shall be provided;
- 3) That the driveway be cleared free of vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet;
- 4) That any landscaping at the driveway entrance be limited to low growing plant material not to exceed three (3) feet in height;
- 5) That the applicant shall submit an As-Built prior to the final inspection by staff which shall take place prior to the issuance of a Certificate of Occupancy.

▪ **80 Millbrook Road Trust, 80 Millbrook Road (Map 40 Parcel 79.1)**

Representation: David Knouf

The applicant is proposing to construct a three (3) bedroom secondary dwelling. The second dwelling will have approximately 1,335 square feet of ground cover and will be located on the western portion of the site, which has approximately 141,610 square feet of lot area and is zoned LUG-2. The existing six (6) bedroom primary dwelling will have an approximate ground cover of 2,723 square feet.

Both dwellings will be accessed by an existing pea stone driveway with an entrance on Millbrook Road, a public, paved roadway of sufficient width, suitable grade and adequate construction. The driveway will contain five (5) 9' x 20' exterior parking spaces (five (5) parking spaces are required on the site). The plan, as submitted, meets the requirements of Zoning Bylaw Sections 139-18 and 139-20.1.

The Applicant has indicated that Conservation Commission approval is required prior to the issuance of a building permit and that approval from the Conservation Commission to construct the secondary dwelling has been obtained.

Planning staff recommends approval with the following conditions

- 1) That an apron at the driveway intersection with Millbrook Road shall be installed and maintained with a minimum depth of ten (10) feet, a minimum width of ten (10) feet and a maximum width of fifteen (15) feet, flared to a width not to exceed nineteen (19) feet;
- 2) That a minimum of five (5) parking spaces shall be provided;
- 3) That the driveway be cleared free of vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet;
- 4) That any landscaping at the driveway entrance be limited to low growing plant material not to exceed three (3) feet in height;
- 5) That the applicant shall submit an As-Built prior to the final inspection by staff which shall take place prior to the issuance of a Certificate of Occupancy.

▪ **Irakli Jibladze, 30 Devon Street (Map 76.4.2 Parcel 1)**

Representation: Linda Williams

The applicant is proposing to construct a three (3) bedroom secondary dwelling. The second dwelling will have approximately 1,199 square feet of ground cover and will be located on the north-eastern portion of the site, which has approximately 161,172 square feet of lot area and

is zoned LUG-3. The proposed five (5) bedroom primary dwelling will have an approximate ground cover of 2,676 square feet.

Both dwellings will be accessed by proposed shell driveway with an entrance on Cumberland Ave, a private, unpaved roadway of sufficient width, suitable grade and adequate construction. The driveway will contain eight (8) 9' x 20' exterior parking spaces (four (4) parking spaces are required on the site). The plan, as submitted, meets the requirements of Zoning Bylaw Sections 139-18 and 139-20.1.

The Applicant has indicated that Conservation Commission approval is not required prior to the issuance of a building permit.

Planning staff recommends approval with the following conditions

- 1) That the driveway intersection with Cumberland Ave shall be maintained with a minimum width of ten (10) feet and a maximum width of fifteen (15) feet, flared to a width not to exceed nineteen (19) feet;
- 2) That a minimum of four (4) parking spaces shall be provided;
- 3) That the driveway be cleared free of vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet;
- 4) That any landscaping at the driveway entrance be limited to low growing plant material not to exceed three (3) feet in height;
- 5) That the applicant shall submit an As-Built prior to the final inspection by staff which shall take place prior to the issuance of a Certificate of Occupancy.

Garage Apartments:

▪ David Lazowski, 18 Parson Lane (Map 75 Parcel 102)

Representation: Mark Cutone

The applicant is proposing to construct a one (1) bedroom garage apartment. The garage apartment will have approximately 981 square feet of ground cover and will be located on the northern portion of the site, which has approximately 123,384 square feet of lot area and is zoned LUG-3. The existing five (5) bedroom primary dwelling has an approximate ground cover of 2,150 square feet.

Both structures will be accessed by a reconfigured driveway with an entrance on Parson Lane, a private, paved roadway of sufficient width, suitable grade and adequate construction. The driveway will contain five (5) 9' x 20' exterior parking spaces (three (3) parking spaces are required on the site). The plan, as submitted, meets the requirements of Zoning Bylaw Sections 139-18 and 139-20.1.

The Applicant has indicated that Conservation Commission approval is not required prior to the issuance of a building permit.

Planning staff recommends approval with the following conditions

- 1) That an apron at the driveway intersection with Parson Lane shall be maintained with a minimum depth of ten (10) feet, a minimum width of ten (10) feet and a maximum width of fifteen (15) feet, flared to a width not to exceed nineteen (19) feet;

- 2) That a minimum of three (3) parking spaces shall be provided;
- 3) That the driveway be cleared free of vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet;
- 4) That any landscaping at the driveway entrance be limited to low growing plant material not to exceed three (3) feet in height;
- 5) That the applicant shall submit an As-Built prior to the final inspection by staff which shall take place prior to the issuance of a Certificate of Occupancy.

▪ **Andrew & Brooke Reger, 7E Lincoln Avenue (Map 42.4.1 Parcel 8)**

Representation: John Hayford

The applicant is proposing to construct a one (1) bedroom garage apartment. The garage apartment will have approximately 399 square feet of ground cover and will be located on the south-western portion of the site, which has approximately 8,550 square feet of lot area and is zoned R-1. The proposed five (5) bedroom primary dwelling will have an approximate ground cover of 2,141 square feet.

Both structures will be accessed by a proposed shell parking area with an entrance on East Lincoln Ave, a public, paved roadway of sufficient width, suitable grade and adequate construction. The driveway will contain two (2) 9' x 20' exterior parking space and one (1) 9' x 20' interior parking space (two (2) parking spaces are required on the site). The plan, as submitted, meets the requirements of Zoning Bylaw Sections 139-18 and 139-20.1.

The Applicant has indicated that Conservation Commission approval is required prior to the issuance of a building permit and that approval from the Conservation Commission to construct the secondary dwelling has been obtained.

Planning staff recommends approval with the following conditions

- 1) That an apron at the driveway intersection with East Lincoln Ave shall be installed maintained with a minimum depth of ten (10) feet, a minimum width of ten (18) feet and a maximum width of twenty (20) feet, flared to a width not to exceed twenty-four (24) feet;
- 2) That a minimum of two (2) parking spaces shall be provided;
- 3) That the driveway be cleared free of vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet;
- 4) That any landscaping at the driveway entrance be limited to low growing plant material not to exceed three (3) feet in height;
- 5) That the applicant shall submit an As-Built prior to the final inspection by staff which shall take place prior to the issuance of a Certificate of Occupancy.

▪ **Peter & Jennifer Garren, 36 Pocomo Road (Map 14 Parcel 79)**

Representation: Stephen Theroux

The applicant is proposing to construct a two (2) bedroom garage apartment. The garage apartment will have approximately 896 square feet of ground cover and will be located on the north-western portion of the site, which has approximately 120,000 square feet of lot

area and is zoned LUG-3. The existing five (5) bedroom primary dwelling has an approximate ground cover of 2,111 square feet.

Both structures will be accessed by an existing shell driveway with an entrance on Pocomo Road, a private, paved roadway of sufficient width, suitable grade and adequate construction. The driveway will contain four (4) 9' x 20' exterior parking space and two (2) 9' x 20' interior parking space (four (4) parking spaces are required on the site). The plan, as submitted, meets the requirements of Zoning Bylaw Sections 139-18 and 139-20.1.

The Applicant has indicated that Conservation Commission approval is required prior to the issuance of a building permit and that they are in the process of applying for approval.

Planning staff recommends approval with the following conditions

- 1) That an apron at the driveway intersection with Pocomo Road shall be installed maintained with a minimum depth of ten (10) feet, a minimum width of ten (18) feet and a maximum width of twenty (20) feet, flared to a width not to exceed twenty-four (24) feet;
- 2) That a minimum of four (4) parking spaces shall be provided;
- 3) That the driveway be cleared free of vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet;
- 4) That any landscaping at the driveway entrance be limited to low growing plant material not to exceed three (3) feet in height;
- 5) That the applicant shall submit an As-Built prior to the final inspection by staff which shall take place prior to the issuance of a Certificate of Occupancy.

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

Motion to approve and endorse ALL of the Approval Not Required “ANR” applications on the agenda (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).

ANR Plans:

- **Ocean’s Dojo, LLC and Taco 1, LLC, 20 & 22 Bartlett Farm Road (Map 65 Parcels 76 & 76.1)**

Representation: Don Bracken

The purpose of this plan is to divide two (2) existing buildable lots into three (3) buildable lots. Lot 1 will contain approximately 8,736 square feet of lot area, Lot 2 will contain approximately 10,356 of lot area and Lot 3 will contain approximately 10,907 square feet of lot area. All three lots have frontage on Bartlett Farm Road. The site is zoned RC-2. It is noted that the site is not part of the proposed zoning changes (Article 49, ATM2021) on Bartlett Farm Road.

Planning staff recommends endorsement.

▪ **Hugh O. Davis, 112 Main Street (Map 42.3.3 Parcel 104)**

Representation: Mike Connolly

The purpose of this plan is a perimeter plan.

Planning staff recommends endorsement.

▪ **Marianne Jenkinson, 1 Bayberry Lane (Map 67 Parcel 57)**

Representation: Dan Mulloy

The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots. Lot 1 will contain approximately 20,049 square feet of lot area and has frontage on Ticcoma Way, which is a private, paved road. Lot 2 will contain approximately 23,147 square feet of lot area and has frontage on both Ticcoma Way and Bayberry Lane. The site is zone R-20.

Planning staff recommends endorsement.

▪ **251 Hummock Pond Rd LLC, 251 Hummock Pond Road (Map 83 Parcel 26)**

Representation: Dan Mulloy

The purpose of this plan is a perimeter plan. It is noted that the filing of the plan has “frozen” the allowable uses currently allowed for the R-20 zoning district on the site for three years.

Planning staff recommends endorsement.

▪ **Dooley Family Trust, 201 Hummock Pond Road (map 65 Parcel 21)**

Representation: Dan Mulloy

The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots. Lot 1 will contain approximately 80,345 square feet of lot area and Lot 2 will contain approximately 124,883 square feet. The site is currently located within the LUG-2 and R-20 zoning districts. It is noted that the site is subject to a zoning change that proposes to change the zoning to VR. Both lots will also conform with the VR intensity requirements and the current allowable uses in the R-20 and LUG-2 zoning districts will be “frozen” for three years.

Planning staff recommends endorsement.

▪ **Arline S. Bartlett Trust, 21 Pleasant Street (Map 55.4.1 Parcel 1)**

Representation: Art Gasbarro & Linda Williams

The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots utilizing 41/81L. Included with your packet is a detailed report outlining the history of the property. Lot 1 will contain approximately 5,057 square feet of lot area and has access from Candle House Lane. Lot 2 will contain approximately 4,589 square feet of lot area and has access from Pleasant Street.

Planning staff recommends endorsement.

- **Cesar Moreno & Ariana Costakes, 8 Toombs Court (Map 68 Parcel 153 – portion of)**

Representation: Dan Mulloy

The purpose of this plan is to implement a previously issued Special Permit for a Secondary Residential Lot.

Planning staff recommends endorsement.

- **Bazhen Lapenko, 4 First Way (Map 55 Parcel 669)**

Representation: Linda Williams

The purpose of this plan is a perimeter plan. It is noted that the filing of the plan has “frozen” the allowable use in the R-1 zoning district currently allowed on the site for three years. Dimensional changes such as new setback requirements are not protected.

Planning staff recommends endorsement.

- **County of Nantucket, Young’s Way**

Representation: Art Gasbarro

The purpose of this plan is to create Parcels 1/2/3/4 so that they may be taken by the County to become a public portion of Young’s Way.

Planning staff recommends endorsement.

- **Kim Glowacki, 3A & 3B Miller (Map 68 Parcel 120)**

Representation: Linda Williams

The purpose of this plan is to implement a previously issued Special Permit for a Secondary Residential Lot.

Planning staff recommends endorsement.

Previous Plans:

- **#02-98 Nantucket Electric Company d/b/a National Grid, *request for a minor modification***

Representation: Joshua Lee Smith

The Applicant is requesting a minor modification to an existing Major Commercial Development “MCD” Special Permit to allow for exterior storage of equipment and materials. A detailed list of items to be stored is included with your packet.

The exterior storage of materials is a use allowed through minor modification as outlined in the original Airport MCD decision, Special Permit #02-98.

Planning staff recommends approval of the Applicant’s request as proposed 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.

▪ **3 & 5 Evergreen Way, Driveway access clarification**

Representation: Rick Beaudette

The Applicant has submitted for the Board's review, the declaration of restrictions and easements as required by two Special Permit decisions for two Secondary Residential Lots. Additionally, the Applicant is requesting a technical change to the language in the decision to clarify that the driveway access shown on the approved site plan is in fact what the Board approved. Lot A shall be accessed by an existing driveway access on Evergreen Way. Lots B and Lot C shall be accessed through the driveway access and easement on Lot D. This is the plan that was applied for, discussed, approved, and voted on.

With the Board's approval, planning staff can submit an updated decision reflecting the technical language change with the Town Clerk, which will be subsequently recorded by the Applicant with the Registry of Deeds. The update will not affect the substance of the decision or the appeals period.

Public Hearings:

- **PLSP-2020-11-0092 2 Mayflower Circle LLC, 2 Mayflower Circle, action deadline 06-15-2021, *CONTINUED TO 06-14-2021***
- **PLSP-2020-10-0089 & PLSP-2020-10-0090 10 Cliff Road LLC, 10A & 10B Cliff Road, action deadline 10-31-2021, *CONTINUED TO 09-13-2021***
- **PLSUB-2021-03-00134, Lori A. Geddes, 13 Evergreen Way, action deadline 07-11-2021**
Voting: John Trudel, Nat Lowell, David Iverson, Fritz McClure
FROM THE APRIL 12, 2021 STAFF REPORT:

Representation: Paul Santos

The applicant is proposing a two (2) lot AR Subdivision. Lot 438A is approximately 40,016 square feet and Lot 438B is approximately 40,015 square feet. The Lot 438B will be accessed by a proposed "Road Easement". It is noted that a Rear Lot Subdivision was not applied for because the regularity formula could not be met. If the AR Subdivision is approved, the Applicant may then come back to the Board and request a conversion to a Rear Lot Subdivision. The site is located within the R-40 zoning district, which requires a minimum lot size of 40,000 square feet.

The site will be serviced by Town Sewer and Town Water.

Included with your packet is a list of waivers being proposed by the applicant and a report prepared by Ed Pesce Engineering.

Planning staff recommends approval.

If approved, the following finding must be made:

- 1) That the Applicant's proposal is in harmony with the general purpose and intent of the Bylaw;

Planning staff recommends the following conditions:

- 1) That recorded copies of all legal documents (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 second 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 R-40 zoning district, or as otherwise specified in 139-8.E.
- 5) That the existing "horse-shoe" driveway shall be abandoned in favor of the driveway easement prior to the conveyance of the lots out of common ownership;
- 6) That a recorded copy of the Road Easement shall be provided to the Planning Board prior to the release of the second lot; and
- 7) That one (1) of the two (2) lots shall be eligible for release after endorsement of the legal documents and definitive plan.

UPDATE:

At the April Planning Board meeting, the Board had a question surrounding whether a waiver could be granted to allow the roadway lot through easement and requested clarity on the outcome of a neighboring property that was subdivided in a similar way.

Under the Subdivision Control Law, the Planning Board has the authority to grant any waiver of the local Rules and Regulations. Granting waivers in an AR Subdivision, particularly a subdivision of minor scale is common practice.

**The Rules and Regulations Governing the Subdivision of Land is not the same document as the Nantucket Zoning Bylaw. The standard of review for an AR Subdivision comes from the Rules and Regulations Governing the Subdivision of Land, which are based on the Commonwealth of Massachusetts' Model Subdivision Regulations.*

It is also important to note the following points: The proposed lots meet regularity, the proposed lots meet the density and intensity requirement of the R-40 zoning district and the proposal is not for a Rear Lot Subdivision, therefore the Rear Lot Subdivision provisions in the Bylaw are not relevant to this application.

If the AR Subdivision is granted, the Applicant has the option to come back to the Board to have it converted from a Definitive Subdivision to a Rear Lot Subdivision. This would eliminate conditions such as submission of legal docs and definitive plans set but would allow the Board to place density restrictions such as number of dwelling

units. **Note that this explanation is for informational purposes only and to provide clarity, it would be premature for the Board to discuss the “what ifs” of a Rear Lot Subdivision since it has not yet been applied for.*

Though not required, a Rear Lot Subdivision, from both a planning and practical perspective would offer a better outcome, and staff would recommend that the Applicant consider converting to a Rear Lot. In order to do so, the AR Subdivision must be granted, and the appeals period must run (21 days after filing a decision with the Town Clerk)

Included in your packet for review is the applications and decisions for 4 Daffodil Lane and 10 Delaney Rad which were a similar subdivision in the (4 Daffodil is the same neighborhood). These decisions should be considered in an effort of remaining consistent with subdivision decisions. It is also important to note that the site may now be serviced by Town sewer and water. This lot is oversized for the area, it is an 80,000 square foot lot that directly abuts a combination of 40,000; 20,000; and 10,000 square foot lots.

Planning staff recommends the following conditions in addition to the ones previously recommended in order to be consistent with the 4 Daffodil Lane decision:

- 8) That all lots shall be connected to the municipal sewer and water systems;
- 9) That the required infrastructure improvements shall be completed within two years from the date of the definitive plan endorsement;
- 10) That the 20-foot-wide Roadway easement located within the bounds of Lot 438A shall be dedicated to roadway purposes and shall be unbuildable;
- 11) That the lot area of the Road Easement shall not contribute towards the overall lot area for purposes of calculating allowable ground cover on Lot 1; and
- 12) That all lots shall utilize the interior roadway easement for access.

Below is memo with staff responses to provide further clarity.

FPM REVIEW OF GEDDES APPLICATION - 13 Evergreen Way

May 5, 2019

Comments for Staff:

Q1: Does the lot meet the “regularity” formula per Sec 139-16D?

I think Paul Santos said it did not at the first meeting. There are no notes on the plan regarding the regularity factor.

STAFF RESPONSE: The surveyor stated that the creation of an additional lot through ANR cannot achieve compliance with regularity due to the narrow width and long length of the lot. The lots shown on the proposed AR plan, do meet regularity.

Q2: Would this lot be sub-dividable w/o waivers under a conventional sub-division plan?

I think the answer is “No” because the SF of the roadway lot area would diminish the front lot to less than the required minimum lot size, i.e. 40,000 SF.

STAFF RESPONSE: No, that’s why they submitted a waiver request(s). As stated above, the minimum lot area and frontage can be achieved for an ANR division, but regularity cannot be met. For AR, enough area for two lots plus a roadway is not available.

Q3: Does this lot meet the requirements for a “Secondary Lot” (covenant lot) per Sec. 139-8C?

I think the answer is “Yes” because: (i) Secondary Lots are permitted in R-40 zone, (ii) each lot has 20’ of frontage, and (iii) the “regularity” formula does not apply to Secondary Lots per 139-8C(6).

STAFF RESPONSE: Yes, the lot meets the requirements for a secondary lot special permit.

Q4: Does the lot meet the requirements for a “rear lot sub-division” per Sec. 139-8E?

I think the answer is “No” because per 139-8E(3)(d) the number of building lots can not exceed the number which may otherwise be created under a conventional sub-division. If this lot can not be sub-divided w/o waivers under a conventional sub-division, then it does not meet the requirements for a rear lot subdivision.

STAFF RESPONSE: If the Board approves the AR subdivision and the appeal period lapses without an appeal, the applicant could then file a special permit request for a rear lot.

Q5: May the roadway lot requirement of the Sub-Division - Rules and Regulations be waived per Section 1.05 in this case?

I think the answer is “No” because waivers are permitted only if the Planning Board determines it is “in the public interest” and not inconsistent with the Sub-division Control Law. Section 1.05 says the surveyor or engineer must state that the waiver sought is consistent with each of the purposes set forth in Section 1.03. There are eight separate purposes in 1.03. The purpose stated in Section 1.03(e) is “for insuring compliance with the Nantucket Zoning By-law.” The purpose stated in Section 1.03(h) is “to advance the community master plan.”

STAFF RESPONSE: The Board has the authority to grant ANY waiver from the Subdivision Rules and Regulations. The Subdivision Control Law does not identify how a road must be laid out, meaning easement or separate lot. It’s also important to note that the County uses the practice of taking roads via permanent easement. Further, there are other approvals granted by the Board where the roadway layout is an easement.

The Board is required to determine whether or not access to the lots within the subdivision is adequate. The status of the roadway as an easement, should have no

bearing on the adequacy of access if appropriate infrastructure is installed within the easement area.

Goal 3.1 of the 2009 Master Plan is to provide affordable housing to the year-round working community. Goal 3.1.1 is to provide incentives for restricted housing units.

STAFF RESPONSE: We don't see the correlation between these goals and the waiver requested. Also, this neighborhood is very much occupied by the year-round working community. Allowing this division would (1) be beneficial to the year round owner/application (2) create additional opportunities for secondary lots (see comment below).

The grant of a waiver in this case would be inconsistent with the goals of the Master Plan and not in the public interest because it would undermine the intent and purpose of Section 139-8C. The purpose of Section 139-8C was and is to act as special incentive to create affordable year round housing. If we grant the waiver requested by the applicant under section 1.05 there will be no longer an incentive to create affordable housing using the Secondary Lot provisions of the Zoning Bylaw.

STAFF RESPONSE: In our opinion, if the waiver is granted to allow for the additional lot to be created, it would actually create the possibility for additional year round housing. By dividing this lot into two, two market rate and two affordable lots could be created instead of just one affordable lot.

- PLSP-2021-03-0119, The 8 Walbang Nominee Trust, 8 Walbang Avenue, *action deadline 07-11-2021*

Voting: John Trudel, Nat Lowell, David Iverson, Fritz McClure, David Callahan
FROM THE APRIL 12, 2021 STAFF REPORT:

Representation: Paul Santos/Steve Cohen

The Applicant is requesting a Special Permit to reconstruct a pre-existing non-conforming dwelling in the MMD zoning district. The site, which has approximately 80,007 square feet of lot area has a primary dwelling with approximately 1,519 square feet of ground cover and a detached garage/studio with approximately 590 square feet of ground cover (total 2,109 square feet of ground cover). The Applicant proposes to eliminate the existing primary dwelling and garage/studio and construct a dwelling with 2,109 square feet of ground cover (to remain consistent with the existing ground cover). The new primary dwelling will be positioned in the same vicinity as the existing primary dwelling, which is an already disturbed area of the property.

Prior to deliberating the merits of this application, the Board must find (by a 4/5 vote) that the proposal is substantially different than the previous request which was denied by the Board.

Planning staff recommends that the Board finds this application is substantially different than the previous application which was denied. The Applicant has eliminated their request for a pool and a shed, as well as some of the exterior hardscaping features that would go

along with the pool and shed from their proposal.

Additionally, Planning staff recommends approval of the Applicant's request as proposed. The construction of the new dwelling will have a same ground cover of the existing dwelling and garage/studio and will be positioned in an already disturbed area of the property.

In order to approve the Applicant's request, the Board must make the following findings:

- 1) That the siting of the dwelling, decking, shed, patio, and proposed pool, which will be 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.

Planning staff recommends the following conditions:

- 1) The construction shall be substantially in accordance with the site plan entitled "MMD Special Permit Plot Plan # 8 Walbang Avenue in Nantucket, Massachusetts", prepared by Nantucket Surveyors, LLC for 8 Walbang Nominee Trust dated March 15, 2021;
- 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.

UPDATE:

At the April Planning Board meeting, the Board unanimously voted that the Applicant's proposal was substantially different than the original proposal, thereby allowing the application to move forward. After discussion, the Board requested that the Applicant consider reducing the amount of area dedicated to decking, porches and other impervious services and present a revised plan.

The Applicant has submitted a revised site plan, which reduces the proposed area devoted to decks, covered porches, and impervious surfaces by 800 square feet.

It is noted that all four of the direct abutters have various forms of relief granted by the Planning Board. This includes new dwelling space, impervious surfaces, and swimming pools. Copies of these decisions are included with your packet for review.

Planning staff's initial recommended findings and conditions remain unchanged with an update to the site plan title. Not approving this proposal would be inconsistent with the previous decisions made by this Board.

▪ **PLSP-2021-04-0124 Yoanna K. Guzman, 8 New Mill Street, *action deadline 08-09-2021***

Representation: Yoanna K. Guzman

The Applicant is requesting that the Board validate a second driveway access located to the north of the dwelling. According to the GIS aerial photos, the driveway was installed at some point between 2004-2007. The property is not currently subject to a formal zoning violation, but the Applicant was made aware through conversations with staff when a garage apartment was applied for in April 2021. As a condition of the garage apartment approval, either a Special Permit must be granted, or the second driveway access must be abandoned.

Planning staff has received several emails from neighboring property owners in opposition to the request.

Planning staff recommends that the Board consider the neighborhood opposition received in response to the public notice, but should also consider the length of time (nearly 15 years) the driveway access has been in place without being identified as problematic.

In order to approve the Applicant's request, the following findings must be made:

- 1) That the Special Permit relief for a second driveway access is within the general purpose and intent of the Zoning Bylaw.
- 2) That the second driveway is not contrary to sound traffic and safety considerations and would not have an adverse effect on the scenic and historic integrity of the neighborhood.

If the Board approves the Applicant's request, planning staff recommends the following conditions:

- 1) That aprons at the driveway entrances with New Mill Street shall be installed and maintained with a minimum depth of ten (10) feet and a maximum width of fifteen (15) feet, flared to a width not to exceed nineteen (19) feet;
- 2) That any future landscaping at the driveway entrances be limited to low growing plant material not to exceed three (3) feet in height;
- 3) That the driveways be cleared free of vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet.

▪ **PLSP-2021-04-0125 Stacey M. Boyd, 8 Isobel's Way, *action deadline 08-09-2021***

Representation: Rick Beaudette

The applicant is requesting a modification to an existing Special Permit so that an approved second driveway access may be relocated on the site. Additionally, the applicant is requesting that the onsite turnaround requirement for a driveway in the LUG-3 zoning district be waived (this waiver was also granted with the initial Special Permit approval). Isobel's Way is a private, dirt, dead-end street that only services one other additional property.

Planning staff recommends approving the request to relocate a second driveway access and

waiving the turnaround requirement as proposed.

If approved, the following findings must be made:

- 1) That the request for a second driveway access and a waiver from the on-site turn around requirement is consistent with the general purpose and intent of the Bylaw;
- 2) That the request for a waiver from the on-site turn around requirement is not contrary to sound traffic and safety considerations; and
- 3) That the request for a waiver from the on-site turn around requirement does not have an adverse impact on the scenic or historic integrity of the neighborhood.

▪ **PLSP-2021-04-0126 Randolph G. & Jane B. Hilst, 1 Golfview Drive, *action deadline 08-09-2021***

Representation: Joe Marcklinger

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 4,364 square feet of lot area. The proposed market rate lot, Lot 1 has approximately 11,776 square feet of lot area. Both lots will be accessed from Golfview Drive, a private paved roadway of sufficient width, suitable grade and adequate construction. The site is zoned R-10.

Planning staff recommends approval of the application as proposed.

If approved, the following finding must be made:

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

Planning staff recommends the following 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 (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.

▪ **PLSP-2021-04-0127 Tidal Creeks Corporation, Amendment, 58 Bunker Road, *action deadline 08-09-2021***

Representation: John Brescher

The Applicant proposes to construct a 50' x 120' building on the site to be utilized in connection with a boat servicing and storage business. Two offices will also be located within the structure. Boat servicing and storage is an allowable use with a major

modification (public hearing) as outlined in the original Airport Major Commercial Development “MCD” decision (#02-98).

Included with your packet is a report prepared by the Town’s consulting engineer, Ed Pesce.

*Also included with your packet is an email thread between a member of the public, Planning Staff, and Airport Staff with a series of aerial photographs provided by Planning Staff in effort to provide clarity and context to the email thread.

The items identified in Ed Pesce’s report pertain to site plan updates and can be addressed between the Applicant, staff and the Building Commissioner in advance of the issuance of a building permit and/or a certificate of occupancy.

Planning staff recommends approval of the application with the following findings and conditions:

Finding:

- 1) That the proposal is in harmony with the purpose and intent of the Nantucket Zoning Bylaw.

Conditions:

- 1) That Pesce Engineering reviews and approves of the plan updates submitted by Blackwell & Associates and dated May 6, 2021;
- 2) That the site shall operate in substantial compliance with the site plan entitled, “Proposed Conditions Site Plan to Accompany MCD Special Permit Application, Sheet 2 of 3” prepared by Blackwell & Associates, Inc. for Tidal Creeks Corporation on May 6, 2021;

▪ **PLSP-2021-04-0128 & PLSUB-2021-04-00151 Fairgrounds Common, LLC, 31 Fairgrounds Road, *action deadline 08-09-2021***

Representation: Arthur Reade/Art Gasbarro

The applicant is requesting a modification to the existing Flex Development Special Permit and Subdivision to accommodate changes made to the architectural plans. The open space has increased by 48 square feet and the total number of structures, units, bedrooms, and parking spaces remain unchanged.

It is the opinion of staff that the proposed layout changes are more suitable for the site and provide for more efficiency in parking, traffic, and pedestrian flow. Planning staff recommends approval of the proposal with the following finding and conditions.

Finding:

- 1) That the proposal is in harmony with the general purpose and intent of the Nantucket Zoning Bylaw.

Conditions:

- 1) That the plans shall be updated, reviewed, and approved by Pesce engineering to

address the items identified in the report dated May 3, 2021 to the satisfaction of staff prior to the issuance of a building permit.

- 2) That all other conditions in the original decision shall remain in full force and effect.

▪ **PLSP-2021-04-0129 Shaver Nantucket Home, LLC c/o Charles Wesley Shaver, 75 Cliff Road, *action deadline 08-09-2021***

Representation: Don Bracken

The Applicant is proposing to reposition two existing driveway accesses. A second driveway access on Hamblin Road was approved in 2012 as a part of a secondary dwelling approval. The applicant proposes to shift the driveway access on Cliff Road to the west and shift the access on Hamblin Road to the south in order to more safely accommodate traffic flow with one single driveway.

Planning staff has received abutter correspondence in favor of the Applicant's request.

In order to approve the Applicant's request, the following findings must be made:

- 1- That the Special Permit relief for a second driveway access is within the general purpose and intent of the Zoning Bylaw.
- 2) That the second driveway is not contrary to sound traffic and safety considerations and would not have an adverse effect on the scenic and historic integrity of the neighborhood.

Planning staff recommends approval. The proposed reconfiguration of the two accesses allows for a better flow with a single driveway.

Planning staff recommends the following conditions:

- 1) That an apron at the driveway entrances with Cliff Road shall be installed and maintained with a minimum depth of ten (10) feet and a maximum width of fifteen (15) feet, flared to a width not to exceed nineteen (19) feet;
- 2) That any future landscaping at the driveway entrances be limited to low growing plant material not to exceed three (3) feet in height;
- 3) That the driveways be cleared free of vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet.

ATM Warrant Articles

▪ **Technical Amendment - Article 46: Zoning Map Change: R-20 and LUG-2 to VR – Osprey and Tautemo Way, and Hummock Pond Road**

Staff suggests that Board consider making a technical amendment to their motion to include a predetermined future date for the zoning change to go into effect. The recommendation comes from a series of conversations between staff and affected property owners, where at least a dozen property owners reached out in opposition to the proposed change following the public hearing. While this would give owners to make changes to their property in advance of the zoning change, the end result is still consistent with the Master Plan.

Preliminary Plans:

- **ACK Mid Island LLC & ACK Offices LLC, 18, 18A 20, 22, 24 & 26 Sparks Avenue (Map 18 Parcels 231, 231.2, 307-310)**

Representation: Dan Mulloy

The Applicant has submitted a preliminary plan for a 12 lot (11 buildable lot) subdivision. Nine (9) of the eleven (11) buildable lots would be accessed from the newly created roadway lot and two (2) of the lots would be accessed directly from Sparks Avenue. All lots will be approximately 5,000 square feet and the site is zoned Commercial Mid-Island “CMI”. The purpose of the plan is a “freeze plan” as the site is subject to a zoning bylaw amendment that proposes to decrease the height limitation in the CMI zoning district from 40 feet to 30 feet.

** It is noted that the Planning Board and Finance Committee have voted to take no action on Article 63, and the proponent of the article has indicated to the Planning Board that they wish to not move forward with the article, but the article is a carryover from ATM 2020 and subject to a vote at Town Meeting.*

Planning staff recommends approval of the preliminary plan.

Sketch Plans:

- **ACK Mid Island LLC & ACK Offices, LLC - 18, 18A, 20, 22, 24 & 26 Sparks Avenue (Map 55 Parcels 231.1, 231.2, 307-310)**

Representation: Dan Mulloy

The Applicant has submitted a Sketch Plan as a concept plan for Board feedback prior to the submission of a Major Commercial Development “MCD” Special Permit request. The proposal includes a mixed-used development which would include restaurant(s), retail space, medical office(s), a fitness center, bowling alley, and apartments. The site would include one floor below grade and three above and would be accessed from Sparks Avenue. A concept plan includes 74 surface level parking spaces and 70 underground parking spaces.

Planning staff has the following suggestions:

- The Applicant should consider alternate means for a below grade parking area, as an underground garage located within close proximity to a wetland and with a high-water table is not be practical any may not be permitted. Perhaps a parking area half below grade and half above with a parking deck above that could be designed in a way that would disguise the “look” of a parking garage.
- If possible, a redesigned shared driveway access with Cumberland Farms should be coordinated.
- The Applicant should coordinate with the Municipal Housing Director to ensure that any affordable apartment units are eligible to be counted towards the SHI list.
- Additional cross-walks should be added
- The Board should discuss with the applicant ways to improve pedestrian access along Sparks Avenue to make connections to four corners and Orange

Street.

- Based on the architectural renderings that have been circulated publicly, staff suggests that the Applicant work to better align the overall design to with HDC guidelines and perhaps look to other design elements of large structures around the island (we note that while architectural review is not under the prevue of the Planning Board, we are staff to a multi-disciplinary department and believe that it is an important suggestion).

Public Comment:

Other Business:

- Next regular Planning Board meeting, Monday, June 14, 2021 at 4PM via Zoom/YouTube

Adjournment: