

1. Planning Board Staff Report 06.13.22

Documents:

[06.13-22 STAFF REPORT.PDF](#)



Nantucket Planning Board

STAFF REPORT

June 10, 2022

To: Planning Board

From: Megan Trudel,
Land Use Specialist

Re: Staff Report for June 13, 2022 Planning Board Meeting

Call to order:

Approval of the agenda:

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

- 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

- 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 900 square feet of gross floor area

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

Motion to approve ALL of the secondary dwelling, garage apartment, and tertiary dwelling applications on the agenda with any findings and/or conditions as written in the draft approval letters included with your packet, with the exception of 74 Milk Street, which will first require a Special Permit (*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:

- 1641 Development LLC, Lot 10 Maple Lane- LC 40995-C (fka 10 Rugged Road) (Map 67 Parcel 303 portion)
- ISLANDLIVING LLC, 2B Longwood Drive (Map 71 Parcel 13.4)
- ACK Livin II, LLC, 2 Hedgebury Lane aka 3 Winn Street (Map 41 Parcel 593)
- Stuart B. Bomeisler, Tr., 28 Crooked Lane (Map 41 Parcel 333)
- Matthew & Theresa Stone, 47 Milk Street (Map 56 Parcel 201)
- Derrick Maxwell, 6 Dooley Court (Map 68 Parcel 153.2)
- Allen Tyler Dewing, 74 Milk Street (Map 56 Parcel 6.1) (*SEE PUBLIC HEARING*)

Garage Apartments:

- ACK 71 Orange Street, LLC, 71 Orange Street (Map 55.4.1 Parcel 167)

Tertiary Dwellings:

- Essex 36 ACK LLC, 36 Essex Road (Map 67 Parcel 626)
- HF2 ACK LLC, 68 Hooper Farm Road (Map 67 Parcel 678)

ANR

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

Motion to approve and endorse ALL ANR applications on the agenda, with the exception of 189/191 Polpis, which has been withdrawn.

- **Diane Archer & Stephen Presser and Erik J. Smith & Edith E. Gregson, 189 & 191 Polpis Road (Map 45 Parcels 5.1 & 5.2) – *WITHDRAWN***
- **Diane M. Ryder, Trustee, 8 Chatham Road (Map 54 Parcel 230)**
Representation: Teddy King
The purpose of this plan is perimeter plan to establish “Parcel D”. Planning staff recommends endorsement.
- **Carmine & Sheila Giardino, 7 Clifford Street (Map 79 Parcel 19)**
Representation: Don Bracken
The purpose of this plan is a revision to a plan previously endorsed by the Board on 12/13/21 (PLSUB2021-12-00228). Planning staff recommends endorsement.
- **Derrick Maxwell, 6 Dooley Court (Map 68 Parcel 153.2)**
Representation:
The purpose of this plan is a perimeter plan to merge Lot 26 with Lot 32. Planning staff recommends endorsement.
- **Thirteen Old South Road Corporation c/o Michael J. Ruby & Michael J. Ruby, 1 Fairgrounds Road & 13 Old South Road (Map 55 Parcels 70.1 & 70)**
Representation: Don Bracken
The purpose of this plan is to reconfigure lot lines (see specific notes on the bottom left of plan for further detail). Planning staff recommends endorsement.
- **39 Monomoy Road, LLC & 41 Monomoy Road, LLC, 39 & 41 Monomoy Road (Map 54 Parcels 79 & 79.1)**
Representation:
The purpose of this plan is to reconfigure lot lines (see specific notes on the top right of plan for further detail). Planning staff recommends endorsement.
- **Town of Nantucket, Hollister Road (Map 92.4)**
Representation: Steve Sullivan
The purpose of this plan is a taking plan, as a part of the paper road yard sale program. Planning staff recommends endorsement.
- **Heidi Bunting, 111 Old South Road (Map 68 Parcel 167)**
Representation: Teddy King
The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots. Planning staff recommends endorsement.

- **Brian F. & Linda M. Davis, 108 Surfside Road (Map 80 Parcel 5)**
Representation: Mike Connolly
The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots. Planning staff recommends endorsement.
- **Amanda B. Jacobs & Kevin J. Jacobs, 4 Rays Court (Map 43.3.2 Parcel 3)**
Representation: Paul Santos/Linda Williams
The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots utilizing 41, 81L. Planning staff recommends endorsement.
- **Daniel B. & Susan A. Balling, 1 Celtic Drive (Map 67 Parcel 661)**
Representation:
The purpose of this plan is to convey “Lot 7A” to the abutting property. Planning staff recommends endorsement.
- **Town of Nantucket, Wannacomet Water Commission, 1 Milestone Road (Map 54 Parcels 45 & 46)**
Representation: Grady Consulting
The purpose of this plan is to merge two parcels. Planning staff recommends endorsement.
- **5 Rosebud Lane, LLC c/o Richard Holdgate & Mary Jennings, 5 Rosebud Lane (Map 68 Parcel 783)**
Representation: Dan Mulloy
The purpose of this plan is to divide an existing buildable lot into three lots (two buildable). The non-buildable lot will be conveyed to the abutting property. Planning staff recommends endorsement.
- **Tyler & Erin Thurston, 8 & 8A Miacomet Avenue (Map 67 Parcels 223.6 & 223.1)**
Representation: Don Bracken
The purpose of this plan is to create a parcel to be dedicated for roadway purposes. Planning staff recommends endorsement.

Previous Plans:

- **Michael Y. & Mary E. LaCoursiere, 67 Fairgrounds Road, *extension request***
The Applicant had previously deposited funds into a Performance Security account so that they could obtain a building permit prior to the completion of driveway improvements affiliated with a Special Permit for a Secondary Residential Lot. Due to construction timeline constraints, the Applicant is requesting a six-month extension (from June 30, 2022 to December 31, 2022) to complete the work.
- **ANR: Kim Glowacki, 3B Miller Lane (Map 68 Parcel 120), *re-endorsement***
The Planning Board needs to re-endorse the previously approved plan. At the time of the vote, Judith Wegner, Fritz McClure, Dave Iverson, and Nat Lowell voted to endorse the plan, with Chairman John Trudel recused. Only two members (Dave Iverson and Nat Lowell) physically signed the plan, so it needs to be voted for re-endorsement so that Barry Rector may sign.

Public Hearings (Applications):

- Catherine Dean Schulman, Trustee, 48 West Miacomet Road, *action deadline 09-30-2022*
CONTINUE TO JULY 11, 2022
- ACK Mid Island, LLC & ACK Offices, LLC, 18, 18A, 20, 22, 24 & 26 Sparks Avenue, *action deadline 09-30-2022*
CONTINUE TO JULY 11, 2022
- 1 Airport Road, LLC, 1 Airport Road, *action deadline 08-07-2022*
CONTINUE TO JULY 11, 2022
- 7 Airport Road, LLC, 7 Airport Road, *action deadline 08-07-2022*
CONTINUE TO JULY 11, 2022

- Allen Tyler Dewing, 74 Milk Street, *action deadline 09-11-2022*

Representation: Linda Williams

The Applicant is requesting a Special Permit to waive the required 20% differential for a secondary dwelling, so that an existing barn structure on the property may be converted to a dwelling unit. (This conversion of the structure has already obtained HDC approval). The primary (4 bedroom) dwelling unit will have approximately 1,257± square feet of ground cover (834± existing, with a 423± addition). The proposed secondary (3 bedroom) dwelling unit will have approximately 1,172± square feet of ground cover, an approximate 7% difference in ground cover.

Planning staff recommends approval of the Applicants request as proposed with the following finding and no conditions (*no additional conditions from the secondary dwelling approval letter*):

Finding:

- 1) That a reduction in size differential is in harmony with the general purpose and intent of the Bylaw due to the existing structure being repurposed.

- **Second Dwelling: Allen Tyler Dewing, 74 Milk Street (Map 56 Parcel 6.1)**
(Separate vote) - If the Board has granted the waiver of the 20% differential, the second dwelling should be approved in accordance with the draft approval letter included in the packet.

- **William A. Tornovish, Jr. & Deborah A. Tornovish, Trustee, 21 Allen's Lane, *action deadline 09-06-2022***

Representation: Paul Santos

The applicant is proposing a three (3) lot, two (2) buildable lot AR Subdivision. Lot 1 will contain approximately 11,018 square feet of lot area, Lot 2 will contain approximately 10,015 square feet of lot area, and Lot 3 (the roadway lot) will contain approximately 2,483 square feet of land area. Lot 2 will be accessed by an existing driveway on Allen's Lane and Lot 1 will be accessed by the roadway lot (Lot 3). The site is zoned R-10.

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 of the Applicant's request as proposed.

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 (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 definitive plan shall be presented to the Planning Board within six (6) months of the filing of the decision; and
- 3) That each lot shall comply with the ground cover ratio, front setback, and side and rear yard setback requirements of the underlying R-10 zoning district, or as otherwise specified in 139-8.E.
- 4) That the roadway lot be conveyed to the Homeowner's Association prior to the release of the second lot;
- 5) That the Homeowners Association 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;
- 6) That if Allen's Lane is ever paved, the owners of each lot shall install a driveway apron pursuant to the Zoning Bylaw at their own expense; and
- 7) That one (1) of the two (2) building lots and the roadway lot shall be eligible for release after endorsement of the legal documents and definitive plan.

- **C Noble LLC dba The Charlie Noble, 15 South Water Street, *action deadline 09-11-2022***

Representation: Rick Beaudette/Bryan Swain

The Applicant is requesting a Special Permit for a Major Commercial Development so that the seating capacity may be increased from 99 to 140. It is important to note, that what triggers the MCD is a restaurant over 100 seats. There are no proposed structural changes to the building, however the sprinkler system has recently been upgraded, which allowed for the increase in seating capacity from a building code perspective.

The Applicant is requesting waivers from a traffic study, site plan review (submission of landscaping, lighting, utility plan, storm drainage, etc), inclusionary housing, the creation of an engineering escrow account.

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

Findings:

- 1) That the Applicant's request is in harmony with the purpose and intent of the Zoning

Bylaw; and

- 2) That the waivers shall be granted due to the scale of the project and due to the fact that there are no proposed physical changes to the existing structure.

Conditions:

- 1) That the seating capacity shall be 140, and the Applicant shall retain the right to distribute between the interior and exterior of the building as long as 140 seats are not exceeded; and
- 2) That the allowable hours of operation shall be daily from 11:30am-1:00am.

• **27 Fair Street, LLC, 27 & 29 Fair Street**, *action deadline 08-30-2022*

Representation: Sarah Alger

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

From the November 15, 2021 Staff Report (Public Hearing not opened at this meeting):

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 judication 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.

From the March 14, 2022 Staff Report (first/only Public Hearing):

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.

UPDATE:

The Applicant has submitted a revised proposal, which is included in the packet. The proposal includes no exterior changes (except for cosmetic updates, repairs, landscape, etc.); no room service will be provided; the use of the restaurant will be limited to the guests of the hotel; and the occupancy count has been taken from the former owner’s website and what’s protected under MGL 40A-7.

Also included with the packet are updated management plans for 27 and 29 Fair Street, plans and elevations, existing and proposed conditions, proposed landscape and lighting plans, recent COI (Certificate of Inspection), and existing and proposed bedroom counts.

Planning staff recommends approval of the Applicant’s request as proposed, using the management plans as reference for the conditions of the decision. Additionally, construction shall remain in substantial compliance with the site plans submitted.

• **The Nantucket Hotel, 77 Easton Street, *action deadline 09-11-2022***

Representation: Paul Santos

The Applicant is requesting to amend an existing Special Permit to alter the pre-existing non-conforming structure, which is non-conforming to front yard setback and groundcover. The Applicant proposes to add a second level to the existing East Cottage, which will increase the total guest bedrooms from 69 to 73 (a number previously approved by the Planning Board). Additionally, the Applicant proposes to construct a new building to the rear of the pool which will consist of 7 small 1-bedroom units for manager staff housing only. The staff building will be elevated with parking spaces below.

The proposed ground cover will be increased by 2,960 square feet, or from 50.4% to 55.8%

• **RPN, LLC, 12 Daves Street, *action deadline 09-11-2022***

Representation: Marianne Hanley

The Applicant is requesting to amend, to the extent necessary, a ZBA Special Permit dated 1/20/04 to allow the construction of four (4) apartments on Lot 1 (a use which is allowed by right). Currently, there are two residential units on the property, one is free standing and one is attached to “The Chicken Box”. Both units will be removed in order to construct the proposed four apartment units.

The four apartments will be located in two buildings, each with two units. Three of the four units will be utilized as employee housing and the fourth will be utilized as temporary housing for bands that are performing at The Chicken Box. Three units will each contain three bedrooms and the fourth unit will contain four bedrooms. There are no proposed changes to the commercial use or commercial structure on the site.

To the extent necessary, the Applicant is requesting a waiver of the open space requirement (reduced from 3,500 sq ft to 3,000 sq ft), the screening requirement for parking areas, and the requirement of any additional onsite parking spaces. The conditions on Lot 3 (the existing parking lot) are proposed to remain unchanged. It is important to note that the ZBA has previously granted relief for parking to 39 spaces and in 2004 waiver the requirement for any additional parking. Furthermore, since that time, 18 public parking spaces are now located within then public right of ways within 500 feet as well as an existing NRTA bus stop.

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

Finding:

- 1) That the proposal is within the general purpose and intent of the Zoning Bylaw, as it provides secure and stable year-round and peak season housing for employees; and
- 2) That the proposed changes shall not be substantially more detrimental to the neighborhood than the existing structures/uses on the site.

Conditions:

- 1) That the housing shall be utilized for performers at The Chicken Box and year-round and peak season employees (and members of their household) only; and
- 2) That all employees housed in the apartments shall be provided NRTA passes.

• **The Westmoor Club (Modification #), 10 Westmoor Lane, *action deadline 09-11-2022***

Representation: Steven Cohen/Paul Santos

The Applicant is requesting a Special Permit to allow a tent for dining and recreational purposes to remain on site for a period of longer than 30 days (June-October). The proposed tent will be constructed in an area that is already dedicated for outdoor dining and recreation purposes and the tent will help to ensure that staff, club members, and guest will be protected from the elements.

It is proposed that the tent be maintained from June 1st- mid-October from 11am-9pm daily. There will be no additional lighting elements (other than what is required for safety) and there will be no amplified sound originating from the tent. A tent was previously approved in 2021 in the same location.

Planning staff recommends approval of the applicant's request as proposed with the following finding and conditions:

Finding:

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

Conditions:

- 1) That the tent shall be allowed on an annual basis from Memorial Day weekend- Columbus Day weekend, 11am-9pm, daily;
- 2) That the tent shall be located within substantial compliance with the site plan;
- 3) That no amplification of sound shall originate from the tent; and
- 4) That the tent shall only be utilized for dining and recreation purposes that are already approved and allowed uses specific to this area of the property.

Public Comment:

Other Business:

Next Meeting – Monday, July 11, 2022 at 4pm via Zoom.

Adjournment: