

1. Planning Board Staff Report 06.14.21

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[06-14-2021 STAFF REPORT.PDF](#)



# Nantucket Planning Board

## STAFF REPORT

June 10, 2021

To: Planning Board

From: Megan Trudel,  
Land Use Specialist

Re: Staff Report for June 14, 2021 Planning Board Meeting

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### Call to order:

### Approval of the agenda:

### Minutes:

- October 26, 2020
- November 18, 2020

### **\*\*\*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:

- EBWC LLC, 4 Lincoln Avenue

Representation: Lisa Botticelli

The applicant is proposing to construct a one (1) bedroom secondary dwelling. The second dwelling will have approximately 691 square feet of ground cover and will be located on the southern portion of the site, which has approximately 18,210 square feet of lot area and is zoned R-1. The existing six (6) bedroom primary dwelling has an approximate ground cover of 2,353 square feet.

Both dwellings will be accessed by a reconfigured gravel and beligum block head-in driveway with an entrance on Highland Ave. The driveway will contain two (2) 9' x 20' head-in exterior parking spaces and two (2) 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 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 Highland Avenue shall be maintained with a minimum depth of ten (10) feet, a minimum width of ten (10) 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.

▪ **Brant Point Real Estate LLC, 12 Brant Point Road**

Representation: Dmitri Kapalis

The applicant is proposing to construct a two (2) bedroom secondary dwelling. The second dwelling will have approximately 723 square feet of ground cover and will be located on the north eastern portion of the site, which has approximately 23,252 square feet of lot area and is zoned R-1. The existing five (5) bedroom primary dwelling has an approximate ground cover of 2,727 square feet.

Both dwellings will be accessed by an existing shell driveway with an entrance on Brant Point Road. The driveway will contain two (2) 9' x 20' exterior parking spaces and two (2) 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 not required prior to the issuance of a building permit.

Planning staff recommends approval with the following conditions

- 1) That a minimum of two (2) 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.

**Garage Apartments:**

- **Peter T. Kaizer, 6 Nobadeer Ave**  
Representation: Peter Kaizer

The applicant is proposing to construct a one (1) bedroom garage apartment. The garage apartment will have approximately 576 square feet of ground cover and will be located on the southwestern portion of the site, which has approximately 41,117 square feet of lot area and is zoned LUG-1. The proposed three (3) bedroom primary dwelling will have an approximate ground cover of 1,315 square feet.

Both structures will be accessed by proposed driveway (material TBD) with an entrance on Nobadeer Avenue, a private, unpaved roadway of sufficient width, suitable grade and adequate construction. The driveway will contain four (4) 9' x 20' exterior parking spaces and two (2) 9' x 20' interior 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 a minimum of three (3) 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.

**ANR Plans:**

**\*\*\*RECOMMEND MOTION\*\*\***

**Motion to approve and endorse ALL of the Approval Not Required “ANR” applications on the agenda with the exception of 3 Correia Lane, which will first require the approval of 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).**

- **3 Raceway, LLC, 3 Raceway Drive**

Representation: Alan Grady/Don Bracken

The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots. Lot A will have approximately 12,248 square feet and Lot B will have approximately 6,818 square feet. Both lots will have frontage on Raceway Drive and Clara Drive and may be accessed by either Raceway Drive or Clara Drive. The site is zoned RC-2.

Planning staff recommends endorsement.

- **Oak Bluff Realty Trust, James Georgaklis, Trustee & Camron T. & Julie C. Gammill, 46 Somerset Lane & 87 Somerset Road**

Representation: Don Bracken / Alan Grady

The purpose of this plan is to combine Parcel A with Lot 3A and to combine Parcel B with Lot 17C. No new buildable lots will be created.

Planning staff recommends endorsement.

- **2 Highland Avenue, LLC, 6 Highland Avenue**

Representation: Arthur Reade / Jeff Blackwell

The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots and one (1) non-buildable lot. Lot 17, the non-buildable lot, will contain approximately 2,064 square feet and will be conveyed to the abutting property owner at 2 North Cliff Way. Lot 16 will contain approximately 9,086 square feet and Lot 15 will contain approximately 8,892 square feet. Lots 15 and 16 have access and frontage on Highland Avenue. The site is zoned R-1.

Planning staff recommends endorsement.

- **Nanahumacke LLC & Nanahumucke Preserve Homeowners Association Trust, 141 Hummock Pond Road (portion of) & Hummock Pond Road**

Representation: Arthur Reade / Jeff Blackwell

The purpose of this plan is to exchange a portion of the HOA owned open space to an abutting property owner for a larger parcel to be incorporated into the open space. The Land Council, which holds the CR has approved of the land swap.

Planning staff recommends endorsement.

- **ABCET, LLC c/o Amos Hostetter, 58 Baxter Road**

Representation: Arthur Reade / Jeff Blackwell

The purpose of this plan is to divide an existing buildable lot into two buildable lots by reconfiguring four (4) registered and one (1) recorded lots. Tract A will contain approximately 28,764 square feet and Tract B will contain approximately 57,605 square feet.

Planning staff recommends endorsement.

- **Clifton Street Nominee Trust, Leonore S. Cunningham, Trustee 31 Coffin Street**

Representation: Jeff Blackwell

The purpose of this plan is to divide an existing buildable lot into four (4) buildable lots. Lot 23 will be approximately 21,405 square feet and will have access and frontage on Coffin Street. Lot 21, which has approximately 21,311 square feet, and Lot 22, which has approximately 21,302 square feet will have frontage and access on Burnell Street. Lot 20, which has approximately 21,309 square feet, has frontage on both Clifton Street and Burnell Street and may be accessed from either. The site is zoned SR-20.

Planning staff recommends endorsement.

- **Emily Curry Overlock, Willard J. Overlock, III, & James Garret Overlock, 20 & 22 Clifton Street**

Representation: Jeff Blackwell  
The purpose of this plan is to combine Lot 24 with Lot 25.

Planning staff recommends endorsement.

- **Michael J. Vienneau & Barbara A. Condon-Morley, 3 Correia Lane**  
***SEE PUBLIC HEARING***

- **Nantucket Historical Association & Dorothy S. Taylor, 8 Walnut Lane & 12 Liberty Street**

Representation: Bryan Swain

The purpose of this plan is to make minor lot line adjustments and to create an updated perimeter plan.

Planning staff recommends endorsement.

- **12 West Creek Road Realty Trust, Christopher Ryder, Trustee, 29 Hinsdale Road**

Representation: Paul Santos

The purpose of this plan is to subdivide an existing buildable lot into three (3) buildable lots and one (1) non-buildable lot. Lot B-1 will contain approximately 7,702 square feet; Lot B-2 will contain approximately 10,432 square feet, Lot B-3 will contain approximately 8,200 square feet, and Lot B-4 (the non-buildable lot) will contain approximately 10,474 square feet. The site is zoned RC-2. All three buildable lots meet the frontage requirement on Hinsdale Lane and have access from both Egan Lane (private, paved shared drive) and from Hinsdale Lane (private, unpaved roadway).

Staff recommends that the Board determine that the practical access on Egan Lane (a paved shared drive, not a roadway), in combination with the access available on Hinsdale Road satisfies the requirement that the roadway be of sufficient width, suitable grade and adequate construction for an ANR subdivision. (The Board unanimously made this same determination two months ago for the property next-door, 33 Hinsdale Road).

### **Preliminary Plans**

- **Dooley Family Trust, John P. Dooley, Sr. & John P. Dooley, Jr., Trustees, 201 Hummock Pond Road**

Representation: Dan Mulloy

The Applicant is requesting the approval of a three (3) lot, two (2) buildable lot subdivision.

Though the zoning has changed at ATM 2021 to VR, the preliminary plan was filed with the Town Clerk in advance of Town Meeting and is subject to R-20 regulations if the preliminary plan is approved and a definitive subdivision is filed within the required statutory time frame. A portion of the property is also located within the LUG-2 zoning district.

Lot 1 will contain approximately 40,039 square feet and Lot 2 will contain approximately 161,867 square feet. Lot 3, the roadway lot, will contain approximately 3,322 square feet. Both lots will be access by the roadway lot off of Hummock Pond Road.

Planning staff recommends approval of the preliminary plan as proposed.

**Previous Plans:**

- **#01-18 Nantucket Community Sailing, 12 West Creek Road, *request for a Minor Modification***

Representation: Arthur Reade

The Applicant is requesting a minor modification to an existing Special Permit for Neighborhood Employee Housing so that the building may be occupied by residents employed by governmental entities and other nonprofits at times when the facility is not occupied by other employees of NCS.

All conditions of the original Special Permit will continue to be enforced, including the Employee Housing Agreements and Management Plan. Additionally, onsite parking will be prohibited without written permission from NCS and NRTA passes will be available free of charge.

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.

- **#02-19 CRH 46 Surfside LLC, 46 Surfside Road, *request for a Minor Modification***

Representation: Paul Santos

The Applicant is requesting to relocate four interior parking spaces to the exterior and to validate an increase of 117 square feet of ground cover. As proposed, the changes still satisfy the Open Space requirement and parking requirements (as amended in the #02-19 modification).

Ed Pesce provided a list of comments that primarily pertain to the previous modification. As construction is in progress, it is staff's recommendation that all of Mr. Pesce's concerns be addressed by the applicant in advance of receiving the Certificate of Occupancy.

Planning staff received an email from David Gray on June 9<sup>th</sup> expressing concern regarding the use of the structure as a possible laundromat facility. Staff has reviewed the both the Planning Board file and the building file, and the approvals consist of a contractor shop use, and a cleaning company falls under that use. The building file does not indicate a commercial use of anything other than a contractor shop. The sewer permit issued accurately reflects the number of half bathrooms and sinks but does not list any laundry facilities. The use of a laundromat is not allowed in the CN zoning district without the issuance of a Special Permit.

Staff requests that the Applicant clarify specifically what the intended use for the building is prior to the Board approving this request for a minor modification.

If it's determined that the Applicant is utilizing the site with uses that are consistent with the Special Permit, staff recommends approval 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.

▪ **Shore Road Subdivision, 2 Francis Street, Form J**

Representation: Bryan Swain

The applicant has submitted all the required recorded legal documents and is requesting the second and final lot be released. Ed Pesce has identified a list of minor items to be completed prior to the release of the final lot.

Planning staff recommends that the Board endorse the Form J for staff to hold until the applicant has completed the remaining minor “punch list” items or supplies escrow funding.

▪ **Sconset Hydrangeas Cluster Residential Homes Special Permit and Subdivision, updated legal documents**

Representation: Bryan Swain

The Applicant has submitted updated legal documents for the Board to endorse to reflect the Special Permit Modification that merged 1 and 3 Hydrangea Lane.

Planning staff recommends approval and endorsement of the documents.

▪ **#8013, Meadows II Definitive Subdivision, request for a Minor Modification**

**SEE PUBLIC HEARING**

▪ **#54-16, Sandpiper Place II North, Special Permit Workforce Homeownership,**

*request for a Minor Modification*

**SEE PUBLIC HEARING**

▪ **#40-16, Meadows II Workforce Rental Special Permit, request for a Minor Modification**

**SEE PUBLIC HEARING**

**Public Hearings:**

▪ **PLSP-2020-10-0089 & PLSP-2020-10-0090 10 Cliff Road LLC, 10A & 10B Cliff**

**Road, action deadline 10-13-2021**

**CONTINUE TO 09-13-2021**

***\*this has already been voted to continue to the September meeting. No need to vote again.***

▪ **PLSP-2020-11-0092, 2 Mayflower Circle LLC, 2 Mayflower Circle, action deadline 09-15-**

**2021**

**CONTINUE TO 07-12-2021**

***\*this has already been voted to continue to the July meeting. No need to vote again.***

▪ **PLSP-2021-05-0130, Michael Vienneau, 3 Correia Lane, action deadline 09-12-2021**

Representation: Barbara Condon / Jeff Blackwell

The applicant is requesting a Special Permit to create a secondary residential lot for year-round residents. The covenant lot will be proposed Lot B, which has approximately 20,002 square feet of lot area. The proposed market rate lot, Lot A has approximately 29,969 square feet of lot area. Both lots will be accessed from Correia Lane, a private unpaved roadway of sufficient width, suitable grade and adequate construction. The site is zoned



LUG-1. The Applicant is also requesting that both lots have a separate driveway access.

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;
- 2) That a second driveway access is not contrary to sound traffic or safety considerations; and
- 3) That a second driveway access does not negatively impact the scenic or historic integrity of the neighborhood.

Planning staff recommends the following conditions:

- 1) That proposed Lot B 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 A may be allowed a Secondary Dwelling (Tertiary Dwelling standards) and that Lot B 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 the requirement for a shared driveway access pursuant to 139-8C(3)(h) shall be waived; and
  - 5) That an Approval Not Required (ANR) plan to establish each lot is a necessary step to implement this permit.
- **ANR- Michael J. Vienneau & Barbara A. Condon-Morley, 3 Correia Lane**  
The purpose of the plan is to implement the Special Permit. Assuming the Special Permit request has been approved, planning staff recommends endorsement.

▪ **PLSP-2021-05-0132 Daniel D. & Seandra Bartlett, 41 Bartlett Farm Road, *action deadline 09-12-2021***

Representation: Marianne Hanley

The applicant is requesting a Special Permit to create a secondary residential lot for year-round residents. The covenant lot will be proposed Lot 2B-2, which has approximately 32,000 square feet of lot area. The proposed market rate lot, Lot 2B-1 has approximately 58,345 square feet of lot area. Both lots will be accessed from Bartlett Farm Road, a private (at this portion) paved roadway of sufficient width, suitable grade and adequate construction. The site is zoned LUG-2.

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 2B-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 2B-1 may be allowed a Secondary Dwelling (Tertiary Dwelling standards) and that Lot 2B-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 (4%), or as otherwise specified in 139-8C;
- 4) That an easement granting access to Lot 2B-1 shall be provided to the Planning Board prior to the conveyance of the lots out of common ownership; and
- 5) That an Approval Not Required (ANR) plan to establish each lot is a necessary step to implement this permit.

▪ **PLSP-2021-05-0133, ACK-N-BACK, LLC, 33 Quidnet Road**, *action deadline 09-12-2021*

Representation: Sarah Alger

The Applicant is requesting a Special Permit to reduce the travelled surface of the driveway from ten (10) feet to eight (8) feet. The proposed driveway access will be the primary driveway access on the site, with an entrance on Quidnet Road. The Applicant is requesting the minor reduction of the travelled way due to constraints caused by wetlands and protected plants. The Conservation Commission has granted approval of the driveway access as shown on the plan.

To the extent necessary, the Applicant is requesting that the Board validate a second driveway access for the easement that the currently utilized to access the property from 35 Quidnet Road.

Planning staff recommends approval with the following findings:

- 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.

▪ **PLSUB-2021-05-00163, Richmond Great Point Development LLC, “Old South Crossing”**, *action deadline 09-12-2021*

Representation: Dave Armanetti

The Applicant is requesting an Amendment to a Previously Granted Definitive

Subdivision to accommodate minor lot line adjustments and roadway takings. No new buildable lots are being created and no new waivers are being requested. Please refer to the description and plans in your packet for a more comprehensive overview.

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

▪ **PLSUB-2021-05-00164, Richmond Great Point Development LLC, "Sandpiper Place II (North)", *action deadline 09-12-2021***

Representation: Dave Armanetti

The Applicant is requesting an Amendment to a Previously Granted Definitive Subdivision to accommodate minor lot line adjustments and roadway takings. No new buildable lots are being created and no new waivers are being requested. Please refer to the description and plans in your packet for a more comprehensive overview. The changes to the plan are shown as highlighted.

It is noted that the proposed changes will place portions of several lots into a different zoning district. This will be addressed through a technical map amendment at next year's ATM. Additionally, the proposed changes, specifically to the modified lots along Beach Grass require updates to the other affected Subdivision (Meadows II), and Special Permits (Sandpiper II & Meadows II) and will be updated through minor modification as shown on the agenda items immediately listed below.

It is Planning staff's recommendation that the Applicant shall be allowed to make minor adjustments to the lot lines of the Sandpiper II duplex lots to utilize strips of land to connect the buildable portion of the lot to the preferred parking area without holding a public hearing and subject to staff approval.

- **Previous Plan (nonpublic hearing)- #8013, Meadows II Definitive Subdivision, *request for a Minor Modification***
- **Previous Plan (nonpublic hearing)- #54-16, Sandpiper Place II North, Special Permit Workforce Homeownership, *request for a Minor Modification***
- **Previous Plan (nonpublic hearing)- #40-16, Meadows II Workforce Rental Special Permit, *request for a Minor Modification***

Representation: Dave Armanetti

*\*All three minor modification requests should be discussed together as they all serve the same purpose\**

The purpose of the minor modifications is to reflect the Sandpiper II Subdivision Amendment. As a part of this amendment, land was taken from the Meadows II development and transferred to Sandpiper II. The modifications note the land changes and how they will be applied to their respective other permits.

Although the applicant has requested to accommodate offsite parking (similar to the recent Sandpiper I Special Permit), that is not a request that can be handled through a minor modification to an existing permit, as it requires Special Permit relief by the Board pursuant to the Bylaw (or the Applicant may modify the newly updated lot lines in Sandpiper II to connect the "parking area" to the respective

lots without the issuance of a Special Permit).

Planning staff recommends approving all three minor modifications to reflect the changes made in the Sandpiper II Subdivision Modification **only**, 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.

Just as the previous modification, it is Planning staff's recommendation that the Applicant shall be allowed to make minor adjustments to the lot lines of the Sandpiper II duplex lots to utilize strips of land to connect the buildable portion of the lot to the preferred parking area without out holding a public hearing and subject to staff approval.

▪ **PLSP-2021-05-0131, FedEx Ground, 9 Nancy Ann Lane, *action deadline 09-12-2021***

Representation: Mary Burns

The Applicant is requesting a modification to an existing Major Commercial Development (MCD) Special Permit so that a new pier loading dock may be constructed and improvements can be made to the existing structure. Additionally, the Applicant will be installing a premanufactured toilet facility and will be making additional site improvements including connections to Town water and sewer, site work, and landscaping.

Included with your packet is a report prepared by Pesce Engineering & Associates, Inc. While the items identified in Mr. Pesce's report may not negatively impact the Planning Board's ability to make a decision on the concepts proposed, all of these items **must** be addressed in advance of the issuance of a building permit.

Planning staff recommends approval with the following findings and conditions:

Findings:

- 1) That the proposed modification is consistent with the original Major Commercial Development Special Permit, subsequent modifications, and the CTEC zoning district; and
- 2) That the proposal is in harmony with the general purpose and intent of the Bylaw.

Conditions:

- 1) That all items in Ed Pesce's report must be addressed to the satisfaction of staff prior to the issuance of a building permit; and
- 2) That all other conditions from the original Special Permit and subsequent modifications shall remain in full force and effect.

▪ **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.

**FROM THE MAY 10, 2021 STAFF REPORT:**

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 surfaces 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.

**UPDATE:**

The Applicant has submitted an updated plan that reduces the requested area devoted to decks, covered porches, and impervious surfaces by an additional 500 square feet. The updated plan also notes the previously disturbed areas on the site. All the proposed changes will occur on already disturbed areas of the site.

In comparison to other Special Permits granted in the immediate vicinity, this proposal has significantly less development than the others. It's staff's opinion that there would not be a valid finding in accordance with the Bylaw to deny this application, and that the request should be **approved** as updated with the findings and conditions recommended in the April staff report, with an update to the plan reference.

- **PLSUB-2021-03-00134, Lori A. Geddes, 13 Evergreen Way, action deadline 07-11-2021**  
*\*this item was not discussed at the May meeting*  
*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.

**FROM THE MAY 10, 2021 STAFF REPORT:**

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.*

Its is also important to not 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:

- 1) That all lots shall be connected to the municipal sewer and water systems;
- 2) That the required infrastructure improvements shall be completed within two years from the date of the definitive plan endorsement;
- 3) That the 20-foot-wide Roadway easement located within the bounds of Lot 438A shall be dedicated to roadway purposes and shall be unbuildable;
- 4) 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
- 5) 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.**

**UPDATE:**

This proposed subdivision is consistent with other LUG-2 to R-40 lots in this area. For example, 3 and 5 Evergreen, which was able to produce two additional covenant lots for year-round affordable housing. The approximately 80,000 square foot lot is surrounded by 40,000; 20,000; 10,000; and 5,000 square foot lots as well as covenant lots and co-ops. The R-40 zoning district is a part of the Town Overlay, which encourages infill development. Additionally, there are not any known or mapped environmental, natural resources, or endangered species concerns.

The Applicant's request is appropriate for both the neighborhood and the zoning district and it is planning staff's opinion that there is not a valid finding or findings pursuant to the *Rules and Regulations Governing the Subdivision of Lane* or any zoning non-conformities that would be created that would warrant a denial of this subdivision request.

Planning staff recommends **approval** of this application as proposed with the previously suggested conditions listed in the April and May staff reports.

- **PLSP-2021-04-0124 Yoanna K. Guzman, 8 New Mill Street, *action deadline 08-09-2021***  
**FROM THE MAY 10, 2021 STAFF REPORT**  
*\*this public hearing was not opened at the May meeting*

Representation: Yoanna K. Guzman/Linda Williams

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.

**Public Comment:**

**Other Business:**

- **41, 81-I, Young's Way, roadway layout recommendation**  
Included with your packet is a draft letter for review and approval, which is similar to other 41, 81-I's that the Board has discussed. The link to the Section 81 I of the Commonwealth's legislation is below:  
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter41/Section81I>

**Adjournment:**

