

1. Planning Board Staff Report 07.11.22

Documents:

[07.1122 STAFF REPORT.PDF](#)



# Nantucket Planning Board

## STAFF REPORT

July 11, 2022

To: Planning Board

From: Megan Trudel,  
Land Use Specialist

Re: Staff Report for July 11, 2022 Planning Board Meeting

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### **Call to order:**

### **Approval of the agenda:**

### **Election of Officers:**

- **Chair** (*currently John Trudel*)
- **Vice-Chair** (*currently Dave Iverson*)

### **Appointments:**

- **CRAC-Coastal Resiliency Advisory Committee** (*currently vacant*)
- **CPC- Community Preservation Committee** (*currently John Trudel*)

### **Minutes:**

- **June 22, 2022**

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

**All applications have been thoroughly reviewed by staff for compliance.**

Criteria for Secondary Dwellings:

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

**Criteria for Garage Apartment**

- 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 10 Lewis Court, 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:**

- Donick Cary Trust etal, 6 Dukes Road (Map 41 Parcel 189)
- Fred & Denise Bisailon, 65A Surfside Road (Map 67 Parcel 223.5)

**Garage Apartments:**

- Jason Olbres, 196 Hummock Pond Road (Map 65 Parcel 30)

Tertiary Dwellings:

- Fred & Denise Bisailon, 65A Surfside Road (Map 67 Parcel 223.5)
- Vlatko Peshnachki, 10 Lewis Court (Map 67 Parcel 155), *SEE PUBLIC HEARING*

ANR

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

**Motion to approve and endorse 9 South Mill Street and 32 Hulbert Avenue ANR's and to hold 14 Equator Drive and 24 Rugged Road until the corresponding Public Hearings.**

- Carolyn Hughes Crowley, 9 South Mill Street (Map 55.4.4 Parcel 23)

Representation: Jeff Blackwell

The purpose of this plan is to create an unbuildable lot to be conveyed to an abutting property. Planning staff recommends endorsement.

- 32 Hulbert Trust, Steven L. Cohen, Trustee, 32 Hulbert Avenue (Map 29 Parcel 72)

Representation: Art Gasbarro

The purpose of this plan is to divide an existing buildable lot into four (4) buildable lots. Planning staff recommends endorsement.

- Laurel E. Long, 14 Equator Drive (Map 66 Parcel 234)

*SEE PUBLIC HEARING*

- Marguerite Glidden, 24 Rugged Road (Map 67 Parcel 164)

*SEE PUBLIC HEARING*

Public Hearings (Applications):

- Catherine Dean Schulman, Trustee, 48 West Miacomet Road, *action deadline 09-30-2022,*

*CONTINUE TO AUGUST 8, 2022*

- ACK Mid Island, LLC & ACK Offices, LLC, 18, 18A, 20, 22, 24 & 26 Sparks Avenue, *action deadline 09-30-2022,*

*CONTINUE TO AUGUST 8, 2022*

- 1 Airport Road, LLC, 1 Airport Road, *action deadline 08-07-2022,*

*CONTINUE TO AUGUST 8, 2022*

- 7 Airport Road, LLC, 7 Airport Road, *action deadline 08-07-2022,*

*CONTINUE TO AUGUST 8, 2022*

- Laurel E. Long, 14 Equator Drive, *action deadline 10-09-2022*

Representation: Art Gasbarro

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 8,007 square feet

of lot area. The proposed market rate lot, Lot A has approximately 14,155 square feet of lot area. Lot A will be accessed from Topaz Circle, while Lot B will be accessed from Equator Drive.

It is noted that a Special Permit was previously issued for two driveway accesses.

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

Findings:

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

Conditions:

- 1) That proposed Lot 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 (12.5%), or as otherwise specified in 139-8C; and
- 4) That an Approval Not Required (ANR) plan to establish each lot is a necessary step to implement this permit.

- **ANR: Laurel E. Long, 14 Equator Drive (Map 66 Parcel 234)**

The purpose of this plan is to implement the Special Permit. If the Board has approved the Special Permit, planning staff recommends endorsement.

- **Marguerite Glidden, 24 Rugged Road, *action deadline 10-09-2022***

Representation: Art Gasbarro

The applicant is requesting a Special Permit to create a secondary residential lot for year- round residents. The covenant lot will be proposed Lot 4B, which has approximately 8,035 square feet of lot area. The proposed market rate lot, Lot 4A has approximately 100,384 square feet of lot area. Both lots will be accessed from Rugged Road.

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

Findings:

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

Conditions:

- 1) That proposed Lot 4B 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 4A may be allowed a Secondary Dwelling (Tertiary Dwelling standards) and that Lot 4B 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 (12.5%), or as otherwise specified in 139-8C;
- 4) That pursuant to 139-8C(3)(h), each lot may utilize separate driveway accesses; and
- 5) That an Approval Not Required (ANR) plan to establish each lot is a necessary step to implement this permit.

- **ANR: Marguerite Glidden, 24 Rugged Road (Map 67 Parcel 164)**

The purpose of this plan is to implement the Special Permit. If the Board has approved the Special Permit, planning staff recommends endorsement.

- **Vlatko Peshnacki, 10 Lewis Court, *action deadline 10-09-2022***

Representation: Don Bracken/Linda Williams/Mike Wilson

The Applicant is proposing to construct a tertiary dwelling and is requesting a waiver of the gross floor area so that it may be increased from 900 square feet to 3,219 square feet.

There is an existing small duplex on the site, each unit contains one bedroom/one bathroom (737 square feet in total). Due to the definition of secondary dwelling in the Bylaw, the existing duplex may not be considered a secondary dwelling and tertiary dwelling, although it is important to note that it does meet the size requirements.

Applying for a tertiary dwelling, with an increase in gross floor area, so that the new dwelling may essentially function as the primary dwelling, was a suggestion made by staff to the Applicant.

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

Finding:

That the Applicant's request is in harmony with the purpose and intent of the Bylaw.

Conditions:

- 1) That the existing duplexes may not be further expanded without further relief from the Planning Board; and
- 2) That all other conditions as listed in the tertiary dwelling approval letter shall apply.

- **Tertiary Dwelling: Vlatko Peshnacki, 10 Lewis Court**  
If the Board has approved the Special Permit relief as requested above, the tertiary dwelling should be approved with the conditions as outlined in the draft approval letter included in the packet.

• **Tyler & Erin Thurston, 8 & 8A Miacomet Avenue, action deadline 10-27-2022**  
**Representation: Don Bracken**

Representation: Don Bracken/Linda Williams

The Applicant is proposing a three (3) lot, two (2) buildable lot AR Subdivision. The site is currently located in the R-5 zoning district.

The zoning for these properties changed from RC-2 to R-5 at the 2020 ATM. The lots were previously separate lots, but were inadvertently merged when the zoning changed. The subdivision restores the lots into two separate lots.

Planning staff recommends approval of the Applicant's request, but that the Board should discuss with the Applicant, in lieu of granting certain waivers, an appropriate contribution to bike and pedestrian path infrastructure and improvements.

Finding:

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

Conditions:

- 1) That recorded copies of all legal documents such as (Covenant, Statement of Conditions, Grant of Right of Enforcement, Homeowners Association) shall be presented to the Planning Board within six (6) months of the filing of the decision;
- 2) That a contribution in the amount of \$x per lot shall be gifted to the Town of Nantucket from the Applicant to be utilized for pedestrian and bike path improvements prior to the issuance of a CO on either property;
- 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-5 zoning district; and

• **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, Carl Borchert**

**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 judgment of evaluating the application for a Special Permit under the zoning bylaw. The Board should also evaluate the following three criteria using the Powers test (*Powers v Building Commissioner of Barnstable*)

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

**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.

**From the June 11, 2022 Staff Report:**

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

***VOTING: John Trudel, Dave Iverson, Nat Lowell, Barry Rector, Carl Borchert***

**From the June 11, 2022 Staff Report:**

The Applicant is requesting to amend an existing Special Permit to alter the pre-existing non-confirming structure, which is non-confirming 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%.

**UPDATE:**

At the June meeting, Campbell Sutton was the alternate activated, Stephen Welch was not present, so Carl Borchert should be activated.

The Applicant has revised their request to eliminate the "Staff Building" and will limit the requested work to the "East Cottage" only. They still need a waiver of groundcover and will be requesting that three additional guest bedrooms and two manager apartments containing one bedroom each be added to the new "East Cottage".

Planning staff is supportive of the Applicant's revised request, as it is contained within an already disturbed area of the property. The Board should discuss with the Applicant whether or not granting the Special Permit for an increase in ground cover would cause negative impacts to neighboring properties.

• **Stephen T. Swift & James V. Nancy S. O'Connor, Sand Eel Subdivision (Modification #1), 50 Miacomet Avenue & 3 Sand Eel Lane, *action deadline 10-24-2022***

Representation: Arthur Reade/Dan Bailey

The Applicant is proposing to modify an existing AR Subdivision so that lot lines and access may be reconfigured. Please refer to the addendum and sketch plan included in your packet for detailed information.

Planning staff is supportive of the Applicant's request, and recommends approval with the following finding and conditions:

Finding:

The Applicant's proposal is in harmony with the purpose and intent of the Bylaw and aligns with the *Rules and Regulations Governing the Subdivision of Land*.

Conditions:

- 1) That a revised AR Subdivision Plan shall be submitted for endorsement by the Planning Board within six (6) months of the filing of the decision; and
- 2) That all applicable revisions to legal documents shall be submitted to the Planning Board for endorsement within six (6) months of the filing of the decision.

- **Nantucket Realty Trust, Jeffrey Kaschuluk, Trustee, Van Glider Avenue Subdivision, 86A & 88 Old South Road, *action deadline 09-09-2022***

Representation: Dani Petkova

The Applicant is proposing an eleven (11) buildable lot AR Subdivision. The site is currently located in the RC-2 zoning district. The Board granted a Preliminary Plan approval for this site at the December 13, 2021 meeting.

While the site may remain RC-2 for eight years after endorsement of the final definitive plan, the zoning district will ultimately be changed. Abutting zoning districts include R-10, R-20, CTEC with R-5 and CN also located within close proximity. The Board should discuss with the Applicant the potential uses for the site, and how those uses may or may not change the required infrastructure.

Sent via email to the Board members, were emails from the Town's consulting engineer and the Fire Department's Fire Prevention Officer. Planning staff recommends that the Board discuss with the Applicant incorporating all of the feedback into the plans/proposal.

**Public Comment:**

**Other Business:**

- **Discussion of STR Workgroup structure recommendation**  
See documents included in packet

**Adjournment**