

1. Planning Board Staff Report 07.12.21

Documents:

[07-12-21-2021 STAFF REPORT.PDF](#)



# Nantucket Planning Board

## STAFF REPORT

July 9, 2021

To: Planning Board

From: Megan Trudel,  
Land Use Specialist

Re: Staff Report for July 12, 2021 Planning Board Meeting

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### Call to order:

### Approval of the agenda:

ATM 2020/2021/2022 Discussion, \*\*\*joint discussion item with Select Board\*\*\*

### Housing Production Plan

Included with your packet is the Housing Production Plan for your review and approval. This plan has been approved by the Nantucket Affordable Housing Trust and will also require the approval of the Planning Board, followed by the Select Board prior to submission to DHCD for certification.

### Election of Officers

- Chair
- Vice-Chair

### Annual Appointments

- CPC (currently John Trudel)
- NAHT (currently Dave Iverson)
- CRAC (currently Fritz McClure)

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

### **▪ Daniel Brownell, 107 Madaket Road (Map 40 Parcel 25.7)**

Representation: Mark Poor

The applicant is proposing to convert an existing accessory structure into a two (2) bedroom secondary dwelling. The second dwelling will have approximately 1,863 square feet of ground cover and will be located on the southern portion of the site, which has approximately 108,345 square feet of lot area and is zoned LUG-2. The existing four (4) bedroom primary dwelling has an approximate ground cover of 2,414 square feet.

Both dwellings will be accessed by an existing gravel driveway with an entrance on Madaket Road. The driveway will contain four (4) 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 an apron at the driveway intersection with Madaket Road 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 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.

### **▪ LBC Sconset, LLC, 9 Hawks Circle (Map 74 Parcel 37.1)**

Representation: Paul Santos

The applicant is proposing to construct a two (2) bedroom secondary dwelling. The second dwelling will have approximately 809 square feet of ground cover and will be located on the south eastern portion of the site, which has approximately 40,000 square feet of lot area and is zoned SR-20. The proposed six (6) bedroom primary dwelling will have an approximate ground cover of 3,780 square feet.

The primary dwelling will be accessed by an existing shell driveway and the secondary dwelling will be accessed by a proposed shell driveway, both with entrances on Hawks Circle. Combined, the driveways will contain four (4) 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.

In order to approve the second driveway access, the Board must find that the second driveway access is not contrary to sound traffic and safety considerations and does not have an adverse impact on the scenic or historic integrity of the neighborhood.

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 aprons at the driveway intersections with Hawks Circle 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 four (4) parking spaces shall be provided;
- 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;
- 4) That any landscaping at the driveway entrances 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.

▪ **ACK Surfside Partners LLC, 24 Woodbine Street (Map 80 Parcel 96)**

Representation: Anton Dimov

The applicant is proposing to construct a one (1) bedroom secondary dwelling. The second dwelling will have approximately 627 square feet of ground cover and will be located on the north eastern portion of the site, which has approximately 64,800 square feet of lot area and is zoned LUG-1. The proposed six (6) bedroom primary dwelling will have an approximate ground cover of 2,478 square feet.

Both dwellings will be accessed by a proposed shell driveway with an entrance on Woodbine Street. The driveway will contain three (3) 9' x 20' exterior parking spaces and two (2) 9' x 20' interior 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 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.

▪ **Christopher Loftus, 8A Evergreen Way (Map 68 Parcel 703.1)**

Representation: Chris Loftus/Teddy King

The applicant is proposing to construct a two (2) bedroom secondary dwelling. The second dwelling will have approximately 728 square feet of ground cover and will be located on the western portion of the site, which has approximately 40,000 square feet of lot area and is zoned LUG-1. The proposed two (2) bedroom primary dwelling will have an approximate

ground cover of 936 square feet.

Both dwellings will be accessed by a proposed gravel driveway with an entrance on Evergreen Way. The driveway will contain four (4) 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 an apron at the driveway intersection with Evergreen Way 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 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.

▪ **Estate of Walter Glowacki, 5 Meader Street (Map 42.2.3, Parcel 40)**

Representation: Linda Williams

The applicant is proposing to relocate a structure onto the site. The existing two (2) bedroom structure, which has approximately 717 square feet of ground cover will become the secondary dwelling. The three (3) bedroom structure, with approximately 1,626 square feet of ground cover, that is being relocated to the site from 44 Washington Street will become the primary dwelling. The site has approximately 6,810 square feet of lot area and is zoned ROH.

The primary dwelling will be accessed by a reconfigured driveway with an entrance on Washington Street and the secondary dwelling will be accessed by an existing gravel driveway with an entrance on Meader Street. Combined, the driveways will contain four (4) 9' x 20' exterior parking spaces (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.

Although the two driveway accesses are existing, they do not predate the 1998 adoption of Section 139-20.1 "Driveway Access" of the Zoning Bylaw, and will require approval of the Planning Board. In order to approve the second driveway access, the Board must find that the second driveway access is not contrary to sound traffic and safety considerations and does not have an adverse impact on the scenic or historic integrity of the neighborhood.

The Applicant has indicated that Conservation Commission approval is required prior to the issuance of a building permit and that the Conservation Commission approval has already been granted.

Planning staff recommends approval with the following conditions

- 1) That aprons at the driveway intersections with Washington Street and Meader Street 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 driveways 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 entrances 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:**

▪ **Fleur-De-Lis Property Trust, 8 Shimmo Pond Road (Map 54 Parcel 258)**

Representation: Lisa Botticelli

The applicant is proposing to construct a one (1) bedroom garage apartment. The garage apartment will have approximately 624 square feet of ground cover and will be located on the western portion of the site, which has approximately 41,098 square feet of lot area and is zoned LUG-1. The proposed five (5) bedroom primary dwelling will have an approximate ground cover of 2,133 square feet.

Both structures will be accessed by proposed shell driveway with an entrance on Shimmo Pond Road, a private, unpaved roadway of sufficient width, suitable grade and adequate construction. The driveway will contain two (2) 9' x 20' exterior parking spaces and two (2) 9' x 20' interior 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 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.

### **Tertiary Dwellings:**

▪ **Veronica, Martha & Charles Dragon 8 Field Avenue (Map 80 Parcel 167)**

Representation: Jeff Blackwell

The applicant is proposing to construct a one (1) bedroom tertiary dwelling unit. The

tertiary dwelling will have an approximate ground cover of 585 square feet and will be located above the garage attached to the northern portion of the existing primary dwelling. The site is zoned LUG-1 and is approximately 35,825 square feet of lot area. The existing three (3) bedroom secondary dwelling has an approximate ground cover of 812 square feet and the existing four (4) bedroom primary dwelling has an approximate ground cover of 1,047 square feet.

The secondary dwelling will be accessed by an existing gravel driveway and the primary and tertiary dwellings will be accessed by an existing gravel driveway, both with entrances on Field Ave. It is noted that approval for the second driveway access was granted by the Board when the secondary dwelling unit was approved in 2016.

Combined, the driveways contain three (3) 9' x 20' exterior parking spaces and two (2) 9' x 20' interior parking spaces (five (5) parking spaces are required). The plan, as submitted, meets the requirements of Zoning Bylaw Sections 139-18 and 139-20.1.

Planning staff recommends approval with the following conditions:

- 1) That the tertiary dwelling not exceed 650 square feet of gross floor area;
- 2) That there be a minimum of five (5) parking spaces provided as delineated on the site plan;
- 3) That the driveways shall 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 tertiary dwelling shall be in the same ownership as at least one other owner-occupied dwelling unit on the lot, or shall be owned by a not-for-profit, religious, or educational entity, or shall be subject to a restriction limiting occupancy to a year-round household. A restriction limiting occupancy to a year-round household shall be filed with the Registry of Deeds prior to the issuance of a Certificate of Occupancy and a copy of which shall be provided to staff; and
- 6) 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 2/4/4.5 Cathcart, which will first require the approval of a Special Permit and 18 Sherburne Turnpike which was an incomplete application that will be resubmitted for the August Planning Board meeting (*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*).**

- **David L. Webb Trust-2007, Ann L. Webb Trust-2007, 142 Surfside Road (Map 80**

**Parcel 98)**

Representation: Mike Connolly

The purpose of this plan is to convey “Lot 4” to the abutting property owner.

Planning staff recommends endorsement.

- **Estate of Atkinson, 139 Surfside Road (Map 80 Parcel 143.1)**

Representation: Joe Marcklinger

The purpose of this plan is to record a perimeter plan.

Planning staff recommends endorsement.

- **ACK T.O.W., LLC, 51 Weweeder Avenue (Map 88 Parcel 12)**

Representation: Dan Mulloy

The purpose of this plan is to divide an existing buildable lot into two (2) lots. Lot 1 will contain approximately 40,700 square feet of lot area and Lot 2 will contain approximately 33,300 square feet of lot area. Lot 2 lot will remain unbuildable until adequate access is constructed. The site is zoned R-20.

Planning staff recommends endorsement.

- ~~**MP Nantucket, LLC, 18 Sherburne Turnpike (Map 30 Parcel)196)**~~

- **Delfmark, LP, 10 Rugged Road (Map 67 Parcel 303)**

Representation: Dan Mulloy

The purpose of this plan is to divide an existing buildable lot into three (3) buildable lots. Lot 1 will contain approximately 20,002 square feet of lot area; Lot 2 will contain approximately 20,026 square feet of lot area; and Lot 3 will contain approximately 178,786 square feet of lot area. All three lots will have frontage and access on Rugged Road, a private, paved roadway of sufficient width, suitable grade and adequate construction.

It is noted that the reduction in frontage for Lot 3 is allow pursuant to Section 139-16B(3) of the Zoning Bylaw.

Planning staff recommends endorsement.

- **Cathcart Harbor View, LLC 2,4, &4.5 Cathcart Road (Map 54, Parcels 8, 81, & 82)**  
***SEE PUBLIC HEARING***

**Preliminary Plans**

- **Stop & Shop, 51 Sparks Avenue, 109 Pleasant Street & 47 Sparks Avenue (Map 55 Parcels 266, 267.1 & 912), 13 lots & 13 buildable lots**

Representation: John Hession

The Applicant has submitted a preliminary plan for a 13 lot (12 buildable lot) subdivision. Ten (10) of the twelve (12) buildable lots would be accessed from the newly created roadway lot and two (2) of the lots would be accessed directly from Sparks Avenue. The lots vary in size between 5,208-11,880 square feet and the site is zoned Commercial Mid-Island “CMI”. The purpose of the plan is a “freeze plan” as the site was subject to a zoning bylaw



amendment at AMT 2021 that proposed to decrease the height limitation in the CMI zoning district from 40 feet to 30 feet. The plan was filed with the Town Clerk in advance of Annual Town Meeting. *\* It is noted that although the Planning Board and Finance Committee voted to take no action on Article 63, and the proponent of the article has indicated to the Planning Board that they wished not to move forward with the article, the article was amended on the floor of ATM to include language that the height limitation in the CMI shall be reduced by right not to exceed 30ft and be allowed by Special Permit between 30-38ft.*

Planning staff recommends approval of the preliminary plan.

**Previous Plans:**

▪ **#8038 Clay Street Subdivision, Form J Lot release**

The Applicant is requesting that the final lot in the subdivision be released. At the time of the publication of the staff report, staff has not received a formal report from Pesce Engineering, though based on extensive conversation between the Applicant, Ed Pesce, and staff recommends that the lot be released, and form held in the office pending confirmation from Pesce Engineering.

▪ **#38-17 & 11-12 Island Lumber MCD, 1 Polpis Road, *Request for minor modification***

The Applicant is requesting a minor modification to an existing MCD Special Permit to install a shed roof over hang onto Building #1 (as shown on the site plan in your packet). The overhang does not create any additional ground cover on the site.

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.

**Public Hearings:**

▪ **PLSP-2020-10-0089 & PLSP-2020-10-0090 10 Cliff Road LLC, 10A & 10B Cliff Road, *action deadline 10-13-2021***

***CONTINUE UNTIL SEPTEMBER MEETING***

***\*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***

***REQUEST TO CONTINUE UNTIL 08-09-2021***

▪ **PLSUB-2021-03-00134, Lori A. Geddes, 13 Evergreen Way, *action deadline 08-30-2021***

***Voting: John Trudel, Nat Lowell, David Iverson, Fritz McClure***

**FROM THE APRIL 12, 2021 STAFF REPORT:**

Representation: Paul Santos / Marianne Hanley

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.*

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:

- 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.

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.

**FROM THE JUNE STAFF REPORT:**

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.

**UPDATE:**

At the June Planning Board meeting, the Board members requested an opinion from Town Counsel prior to making a decision. Included with you packet, is an email from Town Counsel that states the Planning Board is authorized to waive any of its own Regulations, which would include frontage and access requirements.

Planning staff continues to recommend approval of this Subdivision as proposed with the recommended conditions listed (above) in the prior staff reports.

▪ **PLSP-2021-06-0136 & PLSUB-2021-06-00176 Gary & Kimberly Creem – 6 & 8 Hydrangea Lane, *action deadline 10-10-2021***

Representation: Jessie Brescher/Richard Glidden

The Applicant is requesting Modification to an Existing Subdivision so that 6 & 8 Hydrangea Lane may be merged to accommodate an addition to the existing dwelling located on 8 Hydrangea Lane. In merging the two buildable lots, the Applicant will be “giving up” a now allowable dwelling unit and driveway access.

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

Findings:

- 1) That the proposed modification does not materially affect the findings and conclusions upon which the original decision was based;
- 2) That a similar modification has recently been granted in this Subdivision.

Conditions:

- 1) That updated legal documents for the Subdivision shall be submitted to the Board within six months of this decision;
- 2) That all other conditions in the original decision shall remain in full force and effect.

▪ **PLSP-2021-06-0137 Richmond Great Point Development, LLC, Sandpiper II - 7/9/11/13 Beach Grass Road, *action deadline 10-10-2021***

Representation: Dave Armanetti

The Applicant is requesting a Special Permit to reduce the number of on-site parking spaces required for four (4) of the designated duplex lots in the Sandpiper II Development. The duplex units can accommodate six (6) total bedrooms, three (3) bedrooms per side, however can accommodate six parking spaces at the rear of the lot does not afford a practical design layout.

The original Special Permit and endorsed plans provide access to the rear of the duplex lots through a shared driveway easement with parking shown at the rear of the. The intent was to minimize the amount of curb cuts onto Beach Grass Road. The concept of this plan and traffic pattern is to remain the same. The applicant does not propose to waive

the required parking entirely, but to relocate two required parking spaces to the opposite side of the shared drive on property owned by Richmond Development for the Meadows II Apartments. The parking spaces will be deeded through easements to the prospective/future property owners of the duplex lots.

Planning staff recommends approval of the Applicant's request as proposed. The proposal allows for the Applicant to still provide the required amount of parking spaces while continuing to minimize the visibility of the off-street parking spaces from Beach Grass Road, which was the intent of the original design.

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

- 1) That the granting of the relief is in harmony with the general purpose and intent of the Bylaw;
- 2) That full compliance would have an adverse effect upon the scenic or historic integrity of the neighborhood; and
- 3) That granting relief would not be contrary to sound traffic, parking, or safety considerations.

▪ **PLSP-2021-06-0135 Michael Y. & Mary E. LaCoursiere – 67 Fairgrounds Road**, *action deadline 10-10-2021*

Representation: John Brescher

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 4,790 square feet of lot area. The proposed market rate lot, Lot A has approximately 10,210 square feet of lot area. Both lots will be accessed from Fairgrounds Road, a public, paved roadway of sufficient width, suitable grade and adequate construction. The Applicant is requesting that both lots have a separate driveway access by utilizing the current driveway configuration. Lot A will be accessed from an existing gravel driveway to the west and Lot B will be accessed from an existing driveway easement to the east shared with 65 Fairgrounds Road.

It is noted that while abutting neighbors have expressed concerns surrounding the shared driveway easement, concerns regarding a private easement are a civil matter and are not relevant to the Board's review and approval of a Secondary Residential Lot in accordance with the Zoning Bylaw.

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 (25%), 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.

▪ **PLSP-2021-04-0124 Yoanna K. Guzman, 8 New Mill Street, *action deadline 08-09-2021***  
*Voting: Judith Wegner, John Trudel, Nat Lowell, David Iverson, Fritz McClure*  
**FROM THE MAY 10, 2021 AND JUNE 14, 2021 STAFF REPORTS**

*\*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 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-2021-06-0134, Cathcart Harbor View, LLC – 2, 4 & 4.5 Cathcart Road, *action deadline 10-10-2021***

Representation: Dan Mulloy

The applicant is proposing a three (3) lot rear lot subdivision. The site is currently comprised of three (3) lots and the Rear Lot Subdivision is essentially a lot line reconfiguration.

Proposed Lot 1 will contain approximately 56,722 square feet; Proposed 2 will contain approximately 335,021 square feet; and Proposed Lot 3 will have 40,131 square feet. All three (3) lots currently have frontage and access on Cathcart Road and will continue to have frontage and access on Cathcart Road as proposed. The site is located in the LUG-1 zoning district.

It is noted that since no new building lots are being created, there is not an opportunity for an allowable increase in density. Although technically there is enough land area to further subdivide, the lots are currently subject to a private deed restriction limiting the overall area to a total of three (3) lots. The Applicant would not be opposed to also conditioning the Special Permit with similar language. Additionally, Lot 2 is subject to a building restriction line.

To approve the application, the following findings must be made:

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

If approved, Planning staff recommends the following conditions:

- 1) That no new building lots shall be created without further review from the Planning Board;
- 2) That each lot shall comply with the ground cover ratio, front setback, and side and rear yard setback requirement of the underlying LUG-1 zoning district, or as otherwise specified in 139-8E;
- 3) That the filing of an ANR (Approval Not Required) plan is a necessary step to implement this Special Permit.

▪ **ANR- Cathcart Harbor View, LLC**

The purpose of this plan is to implement the Rear Lot Special Permit. If the Board has approved the Special Permit, th plan should be approved and

endorsed. If the Board has continued or denied the Special Permit, the ANR must either be withdrawn by the Applicant or denied by the Board.

**Public Comment:**

**Other Business:**

- Next Planning Board Meeting, Monday August 9<sup>th</sup> at 4pm

**Adjournment:**