

1. Planning Board Staff Report 08.08.22

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Nantucket Planning Board

STAFF REPORT

August 5, 2022

To: Planning Board

From: Megan Trudel,
Land Use Specialist

Re: Staff Report for August 8, 2022 Planning Board Meeting

Call to order:

Approval of the agenda:

Minutes:

- June 13, 2022 - *continue*
- July 11, 2022 - *continue*

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 (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:

- Arienne Bistany & Benjamin Rubenstein, 51 Tennessee Avenue (Map 59.4 Parcel 202)
- Andrea C. Giroux & Donald J. Giroux, 25 Hummock Pond Road (Map 56 Parcel 08)
- 55 Road LLC, 56 South Shore Road (Map 80 Parcel 114)
- Whale’s End II LLC, 43 & 45 Squam Road (Map 13 Parcels 24 & 23)
- Pochick Partners LLC, 30 Pochick Avenue (Map 80 Parcel 281)
- Elizabeth Doble Holby, 19 Low Beach Road (Map 74 Parcel 83)
- John & Rachel Rosenberg, 15 Hedgebury Lane (Map 41 Parcel 602)
- Andrew O’Shea, 10 Miller Lane (Map 68 Parcel 757)
- Jessica N. Torre, 53 Miacomet Avenue (Map 67 Parcel 90)

Garage Apartments:

- Jennifer & Michael Dobie Check, 1 Stonepost Way (Map 74 Parcel 82)
- 55 Eel Point Holdings, LLC, 55 Eel Point Road (Map 32 Parcel 47)

Tertiary Dwellings:

- **CEL ACK LLC, 5 Celtic Drive (Map 67 Parcel 659)**

ANR

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

Motion to approve and endorse ALL of the ANR applications on the agenda.

- **Donald E. Dimock, 58 Bartlett Road (Map 66 Parcel 100.1)**

Representation: Don Bracken

The purpose of this plan is to implement a Rear Lot Subdivision Special Permit. Planning staff recommends endorsement.

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

Representation: Don Bracken

The purpose of this plan is to adjust lot lines. No new building lots are being created. Planning staff recommends endorsement.

- **Nantucket Old South LLC, Clifford Schorer, Manager, 33 Old South Road (Map 68 Parcel 4)**

Representation: Art Gasbarro

The purpose of this plan is to divide an existing buildable lot into three (3) buildable lots. Planning staff recommends endorsement.

- **Auburn Cottage, LLC, 46 Easton Street (Map 42.4.1 Parcel 22)**

Representation: Don Bracken

The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots. Planning staff recommends endorsement.

- **Quaker Road LLC, 14 Quaker Road & 22 Vestal Street (Map 41 Parcel 39)**

Representation: Don Bracken

The purpose of this plan is to reconfigure lot lines to create conforming lots. Planning staff recommends endorsement.

- **Nantucket Cottage Hospital C/O Partners Health Care, 60 Meadow View Drive (Map 56 Parcel 167)**

Representation: Paul Santos

The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots. Planning staff recommends endorsement.

Previous Plans:

- **Oliver's Way Subdivision, 52 Burnell Street, *Endorse legal documents***

Representation: Richard Glidden

The Applicant has submitted legal documents for the Boards review and endorsement. Planning staff recommends endorsement.

- **Maple Lane Subdivision**, *for J Lot Release and acceptance of Performance Security Bond*

Representation: Stephen Maury

The Applicant is requesting that three (3) of the remaining four (4) lots be released. Included with your packet is email correspondence between planning staff, the applicant, and the Town's consulting engineer. Also included with your packet is a spreadsheet detailing work to be completed.

Planning staff recommends releasing three lots, holding on to the fourth (and final lot) under the condition that the Applicant submit a Performance Security Bond in the amount of \$960,090.00. Additionally, the Form J shall be held in the office until the road base is installed and inspected (scheduled to be installed the week of August 8th).

- **Sandpiper I & Sandpiper II**, *re-affirm vote of minor mod from January 2019*

Representation: none

In 2019, the Board approved a modification to the Special Permits allowing that the income restricted units may be duplexes, where the original decision stated single family homes. It has come to the attention of staff that the decision was never drafted or filed. Planning staff requests that the Board vote to re-affirm the original vote so that a decision may be drafted and filed under the current Board composition.

Sketch Plans:

- **10R Gray Ave**, *discussion of potential Special Permit Amendment*

Representation: Ray Pohl

The Applicant would like to discuss with the Board the potential for removing the tertiary dwelling restriction on Lot AB prior to formally filing a Special Permit request.

Planning staff is supportive of this request, as the lot is nearly 20,000 square feet in the R-10 zoning district. Additionally, a tertiary dwelling will require that at least one of the dwellings on the property will be owner occupied or restricted to year-round use.

Public Hearings:

- **Nantucket Realty Trust, Jeffrey Kaschuluk, Trustee, Van Glider Avenue Subdivision, 86A & 88 Old South Road**, *action deadline 09-12-2022*,
CONTINUED TO 09-12-2022
- **Catherine Dean Schulman, Trustee, 48 West Miacomet Road**, *action deadline 09-30-2022*,
CONTINUED TO 09-12-2022
- **ACK Mid Island, LLC & ACK Offices, LLC, 18, 18A, 20, 22, 24 & 26 Sparks Avenue**, *action deadline 09-30-2022*
CONTINUED TO 09-12-2022
- **1 Airport Road, LLC, 1 Airport Road**, *action deadline 10-31-2022*
CONTINUED TO 09-12-2022

- **7 Airport Road, LLC, 7 Airport Road**, *action deadline 10-31-2022*
CONTINUED TO 09-12-2022

- **Mid Island Service Limited Partnership, 41 & 43 Sparks Avenue**, *action deadline 11-06-2022*
Car Wash, *action deadline 11-06-2022*

Representation: Ken Gulliksen

The Applicant is proposing to modify the existing Major Commercial Development Special Permit to change the use of the second floor of the car wash building from an employee housing unit to storage and office. The noise produced from the machinery in the car wash makes the space uninhabitable.

Planning staff recommends approval of the Applicant's request as proposed with the following finding and no conditions:

- That the Applicant's request is in harmony with the purpose and intent of the Bylaw, as requiring housing above the car wash with such noise would not be creating a safe and habitable environment.

- **Nantucket Property Owner, LLC, 6 Beach Grass**, *action deadline 11-06-2022*

Representation: Linda Williams

The Applicant is requesting a Special Permit for a waiver of the onsite parking requirements. The property is located in the R5 zoning district which requires one parking space per bedroom for a duplex. A duplex, each with three bedrooms, will be constructed on the site, requiring a total of six parking spaces. Four total parking spaces can be provided on the site (2 spaces per unit) and a waiver of two spaces is requested.

To the extent necessary, the Applicant is requesting approval for two accesses as show on the plan. The primary access to this lot, as well as the abutting lots, is a common driveway, with the parking spaces all coming off of the common driveway access.

Additionally, this duplex unit is an 80%AMI deed restricted unit. The bedroom/unit count may not be altered for any reason, including to accommodate parking. It has been confirmed by DHCD that the AMI restricted duplex may be subject to a Special Permit.

Planning staff recommends approval of the Applicant's request as proposed with the following findings and no conditions:

- That the Applicant's request is in harmony with the general purpose and intent of the Bylaw;
- That full compliance is physically impossible for the Applicant to provide; and
- That granted the relief requested would not be contrary to sound traffic, parking, or safety considerations.

- **Stephen T. Swift & James V. Nancy S. O'Connor, Sand Eel Subdivision (Modification #1), 50 Miacomet Avenue & 3 Sand Eel Lane, *action deadline 10-23-2022***

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
- 1) 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.

- **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%.

From the July 11, 2022 Staff Report:

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.

UPDATE:

The Applicant is further reducing the request of additional ground cover from 825 sq. ft. to 575 sq. ft. This translates to approximately an additional 1% ground cover and will occur over existing decking space. Planning staff is supportive of the Applicant's revised request, as it is contained within an already disturbed area of the property.

- **27 Fair Street, LLC, 27 & 29 Fair Street**, *action deadline 10-31-2022*

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

- 1) The non-conforming use may be enlarged, as long as the increased use is attributable to the growth of the original non-conforming use.
- 2) "The degree of specificity with which the Zoning Bylaw prohibits the particular extension and, absent specific mention therein, on the general permissiveness of the by-law towards extension of the nonconforming uses.
- 3) A non-conforming use may be improved and make more efficient as long as the changes are "ordinarily and reasonably adapted to the original use and

do not constitute a change in the original nature and purpose of the undertaking.

From the March 14, 2022 Staff Report:

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.

Public Comment:

Other Business:

- Next Planning Board meeting, Monday, September 12, 2022, at 4pm via Zoom

Adjournment: