

1. Planning Board Staff Report 10.13.22

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[10.13.22 STAFF REPORT.PDF](#)



# Nantucket Planning Board

## STAFF REPORT

October 12, 2022

To: Planning Board

From: Megan Trudel,  
Land Use Specialist

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

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### Call to order:

### Approval of the agenda:

### Minutes:

- September 12, 2022

***CONTINUE TO NOVEMBER 13, 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 (none on this agenda)

- 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 (none on this agenda)

- 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 dwellings 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:**

- **Homemade LLC - 7A Mary Ann Drive**
- **Jose Hidalgo - 28A Evergreen Way**
- **William Graham - 53 Meadow View Drive**
- **Francis Farrell - 4 Westmoor Lane**
- **27 Cornwall Street Realty Trust - 27 Cornwall Street**
- **Kim Glowacki - 3B Miller Lane**
- **AF12, LLC - 26 Naushon Way**

**ANR**

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

**Motion to approve and endorse ALL of the ANR applications on the agenda, except for Lot 963, Richmond Meadows Two ACK, LLC, as it will first require the approval of a Minor Modification.**

- **S.A.W.B. Corporation - 24 Cliff Road**

Representation: Jeff Blackwell

The purpose of this plan is to create three (3) unbuildable lots to be conveyed to abutting properties. Planning staff recommends endorsement.

- **Ronald W. Winters and Ellen H. Winters - 12 Gardner Street**

Representation: Steve Sullivan

The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots utilizing 41/81L. A comprehensive report detailing the history of the property is included with your packet. Planning staff recommends endorsement.

- **Heather Vance Haddon, Trustee of Twenty One Milk Street Trust - 21 Milk Street**

Representation: Jeff Blackwell

The purpose of this plan is to divide an existing buildable lot into two (2) buildable lots utilizing 41/81L. A comprehensive report detailing the history of the property is included with your packet. Planning staff recommends endorsement.

- **Diane L. Downing - 1 Toombs Court**

Representation: Mike Connolly

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

- **T. McGrath 2012 Qualified Personal Residence Trust & S. Medallis 2012 Qualified Personal Residence Trust - 78 Cliff Road**

Representation: Dan Mulloy

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

- **Town of Nantucket - Waverly Street Parcel W**

Representation: Dan Mulloy

The purpose of this plan is to divide an existing unbuildable parcel into two (2) unbuildable parcels through the yardsale program. Planning staff recommends endorsement.

- **Okay Okay House LLC - 10 Union Street**

Representation: Don Bracken

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

- **Town of Nantucket - 47 Okorwaw**

Representation: Steve Sullivan

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

- **Richmond Meadows Two ACK, LLC - Lot 963 on LC Plan Harvey Road**  
*SEE PREVIOUS PLANS*

**Previous Plans:**

• **#40-16 Meadows II Workforce Rental Development**, *minor modification*  
Representation: Andrew Burek/Phil Pastan/Dave Armenetti

• **ANR- Richmond Meadows Two ACK, LLC - Lot 963 on LC Plan Harvey Road**  
The purpose of this plan is to implement the minor modification as described above. If the Board has approved the modification as a minor modification, planning staff recommends endorsement of the plan.

• **Craig's Way Subdivision**, *Re-affirm vote from 09-12-2022 meeting*  
The Board must re-affirm the vote taken at the September 12, 2022 meeting to extend the deadline for the definitive plans and any applicable legal docs because the item was not anticipated within 48 hours of the meeting. The Board voted 5-0 in favor of extended at the September meeting.

• **8 & 8A Miacomet Avenue**, *endorsement of plans*  
Representation: Don Bracken  
The Applicant is requesting endorsement of the AR Definitive Subdivision plans. Planning staff recommends endorsement.

• **Sand Eel Lane Subdivision**, *endorsement of plans*  
Representation: Art Gasbarro/Arthur Reade  
The Applicant is requesting endorsement of AR Definitive Subdivision plans, as amended at the September 12, 2022 Planning Board meeting. Planning staff recommends endorsement.

• **PLSUB-2022-05-00273 William A. Tornovish, Jr. & Deborah A. Tornovish, Trustees Tornovish Realty Trust, 21 Allen's Lane Subdivision**, *endorse legal documents*  
Representation: Bryan Swain  
The Applicant is requesting that the Board endorse the legal documents (as provided in the packet) and endorse the Form J. Planning staff recommends endorsement.

**Warrant Article Concepts (draft list):**

See list of concepts for Planning Board sponsored articles prepared by staff in the packet. Please inform staff of any additional concepts you would like to be included.

**Public Hearings:**

- **ACK Mid Island, LLC & ACK Offices, LLC, 18, 18A, 20, 22, 24 & 26 Sparks Avenue**, *action deadline 12-31-2022*  
***REQUEST TO WITHDRAW WITHOUT PREJUDICE (\*\*this is the withdrawal of the prior proposal, see new application for new public hearing)***
- **Catherine Dean Schulman, Trustee, 48 West Miacomet Road**, *action deadline 12-31-2022*  
***REQUEST TO WITHDRAW WITHOUT PREJUDICE***
- **1 Airport Road, LLC, 1 Airport Road**, *action deadline 10-31-2022*  
***CONTINUE TO NOVEMBER 13, 2022***

- **7 Airport Road, LLC, 7 Airport Road, *action deadline 10-31-2022***  
***CONTINUE TO NOVEMBER 13, 2022***

- **ACK Skibo Nominee Trust, Lester E. Lipschutz, Trustee, 9 Madaket Road, *action deadline 12-14-2022***  
***CONTINUE TO NOVEMBER 13, 2022***

- **Mark and Karen Correia, 9 Correia Lane, *action deadline 01-11-2023***

Representation: Mike Wilson/Linda Williams

The Applicant's are requesting to remove 9 Correia Lane, shown as Lot 1, from the Marylin Lane Subdivision and HOA agreements. Substantial underground infrastructure is in place along Marylin Lane, which would prohibit access to the lot from Marylin Lane. Additionally, the lot conforms to all frontage/dimensional requirements of the LUG-1 zoning district using Correia Lane as frontage. If there is no access to the lot from Marylin Lane, there is not a need to contribute to the ongoing maintenance of Marylin Lane.

The Applicant will continue to maintain the portion of Correia Lane from Lot 1 to the intersection with South Shore Road.

Planning staff recommends approval of the Applicant's request with the following finding and condition:

Finding:

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

Condition:

- 1) That the Applicant, at their own expense, shall continue to maintain the portion of Correia Lane from Lot 1 to the intersection with South Shore Road by grading twice per year.

- **Helaina M. Jones, 41 ½ Nobadeer Farm Road, *action deadline 01-11-2023***

Representation: Sarah Alger

The Applicant is requesting to modify a previously granted Special Permit to eliminate the condition which states

“the use of the new lot, shown as Lot 674 on the April 2, 2001 ANR plan, shall be limited to one single-family dwelling”.

The lot is now located withing the CTEC zoning district and is surrounded by a number of other commercial uses, making the restriction no longer appropriate for the site.

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

Finding:

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

• **29 Center Street, LLC – “The Faraway” – 2 & 4 Chestnut Street, 29 & 31 Center Street, 11 India Street, and 16.5 Federal Street, action deadline 01-11-2023**

**Note, there are two separate public hearings before the Board.**

Representation: Sarah Alger

Part 1:

The Applicant is requesting a modification to an existing Special Permit so that the lower level of the property known as the Manor House, may be converted from a retail space to a meeting space.

Planning staff is supportive of the Applicant’s request as proposed with the following finding and no conditions:

Finding:

- 1) That the Applicant’s request is in harmony with the general purpose and intent of the Zoning Bylaw.

Part 2:

Pursuant to the original Special Permit:

*The Planning Board shall hold a public hearing in October or November of the year in which the restaurant in the Meeting House has been in operation for its first full season (June through September) to review the conditions of this Decision. If the Planning Board determines at such public hearing that the Applicant is not meeting the requirements of this Decision or finds that the conditions of this Decision are inadequate to address the concerns raised during such public hearing, the Planning Board may modify its approval by placing further limitations on the use of the project by adding or modifying conditions including, but not limited to, reducing the exterior seating capacity of the restaurant and changing the hours of operation. The Planning Board may likewise modify or eliminate conditions that it finds are no longer necessary or are unduly limiting.*

It is Planning staff’s opinion that the Applicant is meeting all requirements of the decision.

• **Spencer & Denise Goldsmith, 1 White Street, action deadline 01-11-2023**

Representation: Spenser and Denise Goldsmith

The Applicant is requesting a Special Permit for a second driveway access. The existing driveway access on White Street will service the primary dwelling and the proposed second driveway on Lover’s Lane will service the second dwelling.

Due to the length of frontage on two streets and the size of the lot Planning staff is supportive of the Applicant’s request as proposed with the following findings and conditions:

Findings:

- 1) That the Applicant’s request is in harmony with the general purpose and intent of the Zoning Bylaw;
- 2) That the second driveway access would not have a significant and adverse effect on the scenic or historic integrity of the neighborhood; and
- 3) That the second driveway access is not contrary to sound traffic and safety considerations.

Conditions:

- 1) That the driveways shall be constructed in substantial compliance with the site plan submitted; and
- 2) An apron and the driveway intersections with Lover's Lane shall be installed and maintained to the specifications as outlined in Section 139-20.1 of the Zoning Bylaw.

• **Sarah Underwood, Trustee of The Sarah M. Underwood 2021 Revocable Trust, 25 Autopscot Circle, action deadline 01-11-2023**

Representation: Matt MacEachern

The Applicant is requesting a Special Permit to waive the required 20% differential between a secondary dwelling and a primary dwelling so that a small addition may be constructed. It is noted that the dwelling unit is a part of the Nashaquisett Cooperative and is held in separate leasehold than the other dwelling on the property. Additionally, the Applicant will need to be granted relief to alter/extend/change an existing preexisting structure, which is pre-existing non-conforming to the side and rear yard setbacks.

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

Findings

- 1) That the Applicant's request is in harmony with the general purpose and intent of the Zoning Bylaw; and
- 2) That the alteration/extension/change will not be substantially more detrimental to the neighborhood than the existing nonconformity.

• **6 North Beach Street, LLC/8 North Beach Street, LLC/4 Dolphin Court, LLC – “The Brant”– 6 & 8 North Beach Street and 4 Dolphin Court (RE-NOTICE), action deadline 10-30-2021**

***Voting: John Trudel, Dave Iverson, Nat Lowell, Barry Rector***

***\*note, for a full five member Board, Stephen Welch must be activated due to changes in Board composition***

Representation: Mike Wilson/Linda Williams

The Applicant is requesting that the public hearing be reopened so that a newly submitted site plan may be considered. The merits of the proposal remain the same (draft decision is included with the packet), but the Applicant, at their own expense, is proposing to create a “pull off” on North Beach Street. This is a result of ongoing communications between the Applicant and various abutting property owners.

*It is noted that this change has been re-noticed in both the newspaper and through certified mailings with an updated abutters list.*

Planning staff is supportive of the Applicant's request as proposed with no additional findings or conditions.



- **Nantucket Realty Trust, Jeffrey Kaschuluk, Trustee, Van Gilder Avenue Subdivision, 86A & 88 Old South Road, *action deadline 12-31-2022***

***Voting: John Trudel, Dave Iverson, Nat Lowell, Barry Rector, Joseph Topham***

**FROM THE JULY 11, 2022 STAFF REPORT:**

Representation: Jeff Kaschuluk/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.

**FROM THE SEPTEMBER 12, 2022 STAFF REPORT:**

At the July meeting, the Board discussed with the Applicant concerns surrounding roadway width, utilization of exiting easements for connection, and proposed uses on the site, as the site is currently located in the RC-2 zoning district and will be changed to the CTEC zoning district at ATM 2023. Additionally, staff met with the Applicant to go over some of the Board's concerns in further detail.

The Applicant has submitted a response to comment for Mr. Pesce's initial review, amended plans, and a stormwater management report. It is noted that the newly submitted swept path analysis has been reviewed and approved by the Fire Department. A report from Mr. Pesce commenting on the newly submitted materials is included with the packet for review.

Also included in your packet is an analysis of uses in the RC-2 zoning district and in the CTEC district. The Applicant has verbally confirmed to staff that they are amendable to a future zoning change to the CTEC zoning district. The Board should highlight any uses that may be appropriate to prohibit in anticipation of that change.

The Applicant still needs to adjust the easements on the plans to provide access to Egan Lane. Additionally, when the Board is ready to render a decision, it should be clear that the Subdivision roadway shall not provide frontage to any lot outside of the subdivision lots without a modification to the subdivision.

**UPDATE:**

The Applicant has submitted updated plans to show adjusted lot sizes and a small lot "spike strip lot" at the edge of the roadway to create space between the roadway and the abutting parcel.

The Board should discuss with the Applicant a monetary contribution or tree/landscape

contribution in lieu of granting waivers.

Planning staff is supportive of the Applicant's revised proposal, and recommends the following conditions:

- 1) That recorded copies of all legal documents (such as Covenant, Statement of Conditions, Grant of Right of Enforcement, Homeowner's Association, etc.) shall be presented to the Planning Board within six (6) months of the filing of the decision;
- 2) That the definitive plan shall be presented to the Planning Board within six (6) months of the filing of the decision;
- 3) That an easement granting vehicle and pedestrian access from the subdivision roadway to Egan Lane shall be presented to the Board prior to the release of any of the building lots to the west of the roadway lot;
- 4) That 10' utility easements shall be in place from the "Easterly Access Easement" to the roadway lot and from the "Westerly Business Drive and Electric Easement" to the roadway lot;
- 5) The "spike strip lot" is an unbuildable lot and shall not be dedicated to roadway purposes without further relief from the Planning Board;
- 6) That no further subdivision creating additional building lots shall be permitted without further relief of the Planning Board, minor lot line adjustments shall be permitted;
- 7) That the roadway lot shall not provide frontage for any further subdivision of adjacent parcels without further relief from the Planning Board;
- 8) That the roadway lot shall be transferred to the Homeowners Association prior to the release of the final building lot;
- 9) That a Homeowners Association/Roadway maintenance fund must 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 final building lot;
- 10) That the allowed uses must align with what's permitted in the CTEC zoning district. The following uses shall be prohibited within the subdivision, as they are allowed in RC-2 but prohibited within the CTEC zoning district, they shall only be permitted if there is a future change to the use chart:
  - Secondary Dwelling
  - Elder housing facility
  - Convenience store
  - Alcohol sales
  - Bakery
  - Open-air market
  - Pharmacy
  - Supermarket
  - Restaurant (Small and Large)
  - Takeout food establishment
  - Drive-thru food
  - Tavern/Bar
  - Formula Business Retail

- Formula Business Supermarket
- Theater/public assembly
- Bank
- ATM
- Arcade
- Art Gallery
- Museum
- Crematorium
- Funeral Home
- Health spa
- Medical clinic
- Motor vehicle sales
- Motor vehicle rental
- Adult uses
- Car wash
- Yacht/sailing clubs

• **Leslie Linsley, 39 Union Street, *action deadline 12-11-2022***

***Voting: John Trudel, Dave Iverson, Nat Lowell, Barry Rector, Joe Topham***

**FROM THE SEPTEMBER 12, 2022 STAFF REPORT:**

Representation: Paul Santos

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, which has approximately 2,098 square feet of lot area. The proposed market rate lot, Lot 2A, has approximately 3,210 square feet of lot area. Lot 2A will be accessed from Union Street and Lot 2B will be accessed from Flora Street.

The Applicant is also requesting waivers to allow each lot its own driveway access, to reduce the setbacks from the interior lot line, and to distribute the groundcover between the two lots as long as the total ground cover does not exceed 40%.

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.
- 2) That a second driveway access would not have a significant and adverse effect on the scenic or historic integrity of the neighborhood and is not contrary to sound traffic and safety considerations because the property abuts two streets;

Conditions:

- 1) That proposed Lot 2B 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 both lots shall be limited to a single dwelling unit, as tertiary dwellings are prohibited in the ROH zoning district;
  - 3) That the setbacks from the interior lot line between Lot 2A and Lot 2B shall be waived;
  - 4) That each lot may utilize a separate driveway access as shown on the attached site plan;
  - 5) That the ground cover ratio requirement for the secondary lots shall be waived provided that the total ground cover ratio does not exceed the amount that would have been allowed for the original lot (40%);
  - 6) That an Approval Not Required (ANR) plan to establish each lot is a necessary step to implement this permit.

**UPDATE:**

At the September Planning Board meeting, there was extensive discussion surrounding the proposed covenant lot and the location of three Town trees on the site. The Applicant has submitted an updated plan detailing the location of the trees. Planning staff recommends approving the Applicant's request as proposed, adding the additional condition to the recommended conditions (as recommended in the September 12, 2022 Staff Report)

- That the Town Tree Warden shall be consulted, review, and approve of the location of a new dwelling unit as it relates to the Town trees prior to the issuance of a building permit. Such approval shall be submitted to the Planning Board in writing.

- **ACK Mid Island, LLC & ACK Offices, LLC, 18, 18A, 20, 22, 24 & 26 Sparks Avenue,**  
*action deadline 01-11-2023*

Representation: Dan Mulloy

The Applicant is proposing a mixed-use development to include a small restaurant, take out food, bank, office, bowling ally and apartments. Included with your packet is a detailed summary of what's being requested as well as an architectural rendering, proposed site plan, and proposed floor plan. Please note that the maximum allowable units is 32 and not 34. Planning staff is supportive of the shared connections with the abutting properties.

The Board should provide the Applicant with any feedback, concerns, recommended changes, etc.

**Public Comment:**

**Other Business:**

- **Next Planning Board meeting, Monday, November 14, 2022, at 4pm via Zoom**