



ZONING BOARD OF APPEALS

2 Fairgrounds Road
Nantucket, Massachusetts 02554
www.nantucket-ma.gov

Commissioners: Susan McCarthy (Chair), Lisa Botticelli (Vice chair), Ed Toole (Clerk), Michael J. O'Mara, Elisa Allen
Alternates: Mark Poor, Geoff Thayer, Jim Mondani

~~ MINUTES ~~

Thursday, January 13, 2022

Public Safety Facility, 4 Fairgrounds Road, Community Room –1:00 p.m.

This meeting was held via remote participation using ZOOM and YouTube.

Called to order at 1:00 pm and Announcements made by Ms. McCarthy

Staff in attendance: Leslie Snell, Deputy Director of Planning; Nicky Sheriff, PLUS Administrative specialist; Terry Norton, Town Minutes Taker
Attending Members: McCarthy, Toole, O'Mara, Allen, Thayer, Mondani
Absent: Botticelli, Poor

Agenda adopted by unanimous consent

Motion **Motion to Approve as drafted.** (made by: Allen) (seconded)
Roll-call Vote Carried 5-0//McCarthy, Toole, Allen, O'Mara, and Mondani-aye

I. APPROVAL OF MINUTES

1. December 9, 2021
McCarthy – Page 2 of 9: “**McCarthy** – Mr. Dennison is say Mr. Kargman...” should read “...is saying...”
Page 4 of 9: Add Lisa Botticelli, Botticelli & Pohl under representative under application 21-21.

Motion **Motion to Approve as amended.** (made by: Toole) (seconded)
Roll-call vote Carried 5-0//McCarthy, Toole, O'Mara, Allen, and Mondani-aye

2. December 16, 2021
Motion **Motion to Approve as drafted.** (made by: Toole) (seconded)
Roll-call vote Carried 5-0//McCarthy, Toole, O'Mara, Allen, and Mondani-aye

II. OLD BUSINESS

1. 30-21 Anne Dewez, et. al (Applicants) 103 Main Street Dennison
WITHDRAWN

Voting McCarthy, Toole, Allen, Mondani
Alternates Thayer
Motion **Motion to Approve the request for withdrawal.** (made by: Toole) (seconded)
Roll-call vote Carried 4-0//McCarthy, Toole, Mondani, Allen-aye

2. 37-21 Kristina & Nicholas Amendolare 8 Bank Street Williams
CONTINUED TO FEBRUARY 10, 2022.

3. 22-21 Adam Delaney-Winn, Trustee of Warren’s Landing Nominee Trust Reade
CONTINUED TO FEBRUARY 10, 2022

4. 29-21 CRH 46 Surfside, LLC 46 Surfside Road Halik
CONTINUED TO FEBRUARY 10, 2022

Voting McCarthy, Toole, O'Mara, Allen
Alternates Thayer, Mondani
Motion **Motion to Continue 37-21, 22-21, and 29-21 to the regularly scheduled February 10th, 2022 ZBA meeting.** (made by: O'Mara) (seconded)
Roll-call vote Carried 5-0//O'Mara, Toole, McCarthy, Allen, and Thayer-aye

5. 25-21 John J. Barry and Nancy J. Barry 1 Goose Cove Way Brescher
WITHDRAW WITHOUT PREJUDICE.

Voting McCarthy, Toole, O'Mara, Allen
Alternates Thayer, Mondani
Motion **Motion to Approve the withdrawal without prejudice.** (made by: Allen) (seconded)
Roll-call vote Carried 5-0//Allen, O'Mara, Toole, McCarthy, and Thayer-aye

III. NEW BUSINESS

1. 31-21 James A. & Susan G. Genthner, Trustees of the James A. Genthner Trust and the Susan G. Genthner Trust
 128 Surfside Road Sue Genthner

Applicant is seeking a variance pursuant to Zoning Bylaw Sections 139-16A and 139-32 to exceed the maximum allowable ground cover ratio of 7% and to reduce the rear-yard setback from 10 feet to 5 feet only where it applies to the proposed new dwelling. Locus is situated at 128 Surfside Road, shown on Assessor’s Map 80 as Parcel 299.1 and as Lot 3 upon Land Court Plan 40394-B. Evidence of owner’s title is registered on Certificate of Title No. 28319 on file at the Nantucket County District of the Land Court. The site is zoned Limited Use General 1 (LUG-1).

- Voting McCarthy, Toole, O’Mara, Allen, Mondani
- Alternates Thayer
- Recused None
- Documentation File with associated plans, photos and required documentation
- Representing Sue Genthner, owner/applicant
- Public None
- Discussion (1:10)
 - Genthner** – Reviewed her request for groundcover relief; at that time, the plan showed the cottage in the paper road. She has moved the cottage out of the paper road and is asking the setback at the back of the cottage be 5’.
 - Toole** – Asked if the applicant’s plan shows it 10’ from the lot line on one side. Asked also if any money changed hands.
 - McCarthy** – They’re looking for both side and rear setback. We asked her to move it and they have.
 - Snell** – This is still in progress in Land Court. We’ve renoticed this with no response from abutters. Recommend approval. Some Requests for Proposals require a deposit, and it’s likely we did that but can’t say 100%. You could consider putting money in an escrow account.
 - Genthner** – She doesn’t pay for the land until it goes through Land Court and she takes possession.
 - O’Mara** – If we approve as requested and the applicant doesn’t complete her side of the deal, that would create a title issue in the future. If he were the buyer, he’d prefer to have the money in an escrow account.
 - Snell** – We would deposit the money in a segregated account until the transaction is complete.
 - Genthner** – She would be comfortable with that.
 - Mondani** – He’s fine with that but doesn’t know how much protection that provides. If they don’t get the property and build the structure, they will be over groundcover.
 - Allen** – If it doesn’t come together, the cottage would be in the setback to the paper road. If it’s outside the 10’ setback, we are dealing only with the groundcover issue.
 - McCarthy** – Yes, they could pull the money out of the escrow account before the sale is complete but it’s not probable. She has no issues with this proposal and is okay with reducing the setback. The yard sale is a Town initiative to give abutters the land at a very reasonable price. The Genthners have already waited a long time for this to happen.
 - Snell** – You can reduce the side-yard setback to only the area affected by the structure.
 - O’Mara** – If the Genthners don’t acquire the land, the neighbors can buy it. He’s okay with the recommendation and thinks the Town and neighbors are protected.
 - Toole** – That protects the Town regarding setback but the elephant in the room is ground cover. He doesn’t understand why they can’t wait for the Land Court to finish processing this.
 - Genthner** – Allowable ground cover is 2882sf without the paper road and 3487sf with the road. This is a 1-acre wooded parcel; she believes her neighbors are built out and the variance for ground cover has been given before. She’s been waiting since 2013; she intends to buy the paper road once she can.
 - Allen** – If the Genthners wait for the paper road, they can move the structure more into the paper road without relief. Wonders if granting this would end up setting a precedent for lenience in similar situations.
 - McCarthy** – Other applicants who came to us for setback relief already had the paper road; the Genthners don’t have the land yet. Because it’s been in process for 9 years, we are considering special relief.
 - Mondani** – This is a very unique situation and we aren’t setting precedent.
- Motion **Motion to Approve the relief as requested with the 5’ setback limited to the structure as shown on the plan.**
 (made by: Allen) (seconded)
- Roll-call vote Carried 4-1//Allen, O’Mara, McCarthy, and Mondani-aye; Toole-nay

2. 38-21 Brett Stephen Morneau & Sarah Morneau 7 Goldfinch Drive Brescher
 Applicants are seeking a Special Permit pursuant to Zoning Bylaw Sections 139-30 and 139-16. C.(1) in order to reduce the ten (10) foot side yard setback to five (5) feet to site an addition to the premises. Locus is situated at 7 Goldfinch Drive and shown on Assessor’s Map 68 and Parcel 504. Evidence of owner’s title is registered on Certificate Title No. 27995 with the County District of the Land Court. The site is zoned Residential 5 (R5).

- Voting McCarthy, Toole, O’Mara, Thayer, Mondani
- Alternates None
- Recused None
- Documentation File with associated plans, photos and required documentation
- Representing John Brescher, Glidden & Brescher, P.C.
- Public None

- Discussion (1:40) **McCarthy** – Disclosed she lives on Goldfinch but isn't an abutter.
Brescher – Requesting the relief to reduce the 10' setback to 5' to site a structure. The change from R2 to R5 rendered many properties in Naushop non-conforming. There are no abutter concerns.
McCarthy – She believes we granted this for 31 Goldfinch in November.
Toole – Asked when the setback switched from 5&5 to 5&10.
McCarthy – When it went to R5.
Brescher – Going to R5 removed the commercial potential out of Naushop.
Snell – The intent of 5&10 allows better access to structures in the back. Believes what is being asked meets with the intent.
- Motion **Motion to Approve the relief as requested.** (made by: Thayer) (seconded)
Roll-call vote Carried 5-0//Mondani, Thayer, McCarthy, Toole, and O'Mara-aye

IV. OTHER BUSINESS

1. Next meeting February 10, 2022 via ZOOM

V. ADJOURNMENT

- Motion **Motion to Adjourn at 1:47 pm.** (made by: Toole) (seconded)
Vote Carried unanimously

Sources used during the meeting not found in the files or on the Town website:

1. None

Submitted by:
Terry L. Norton