

Nantucket Planning Board DRAFT Minutes
Remote Participation via Zoom Webinar
January 31, 2022

Board Members: John Trudel, III (Chair), David Iverson (Vice-Chair), Nat Lowell, Barry Rector, and Frederick “Fritz” McClure

Alternates: Stephen Welch, Campbell Sutton, David Callahan

Staff: Andrew Vorce (Planning Director), Leslie Snell (Deputy Director of Planning), Meg Trudel (Land Use Planner) and Catherine Ancero (Administrative Specialist)

To view a recording of the meeting use link below:

<https://youtu.be/yupt8g7esz>

I. Call to order:

Chair Trudel called the meeting to order at 4:04PM.

Chair Trudel read a prepared statement in accordance with Governor Baker’s March 21, 2020 order regarding open meeting law, which outlines how the meeting is conducted via remote participation and states the ground rules for any discussion.

Roll call of those participating:

Board members:

Nat Lowell *Aye*

Vice- Chair Iverson *Aye*

Fritz McClure *Aye*

Barry Rector *Aye*

Chair Trudel *Aye*

Alternates:

David Callahan *Aye*

Campbell Sutton *Aye*

Stephen Welch *Aye*

Staff:

Leslie Snell *Aye*

Meg Trudel *Aye*

Catherine Ancero *Aye*

II. Approval of the agenda:

Mr. Rector moved to approve the agenda. The motion was duly seconded by Mr. McClure and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

Fritz McClure *Aye*

Nat Lowell *Aye*

Vice- Chair Iverson *Aye*

Chair Trudel *Aye*

III. Public Hearings – Warrant Articles:

- **#54 Zoning Bylaw Amendment** to add the use “Hot Tub/Spa” into Section 7A (Use Chart) as a prohibited use in the Residential Old Historic (ROH), Sconset Old Historic (SOH), and Commercial Industrial (CI) districts, as a use allowed by special permit in the Village Residential (VR) and Moorlands Management District (MMD) districts, and as an accessory use in all other zoning districts. (*Citizen Sponsored Article - A. Dewez*)
- **#55 Zoning Bylaw Amendment** to amend the definition of “Hot Tub/Spa” in Section 2A (definitions) to reduce the allowable surface area from 150 square feet to 64 square feet and to limit the gallonage to not exceed 1,000 gallons and to amend the definition of “Swimming Pool-Residential” to reduce the minimum surface area from 150 feet to 64 feet. (*Citizen Sponsored Article - A. Dewez*)

Representing: Anne Dewez, the proponent.

Discussion: Article 54 is to add the use of hot tub spa into section 7A. **Ms. Dewez** stated that she can't really talk about one of these articles without talking about the other because they are inextricably linked. The first article is a ban on water features hot tub spas in the old historic district and the second article is a change in the criteria that is define a hot tub or a spa. Reason there are two is because there were problems in the zoning involved in hot tubs and spas in the old historic district. What caused this interest was the Mueller subdivision and it included a water feature which she was surprised. Ms. Dewez asked around and learned quickly that pools are not allowed in the old historic district however spas and hot tubs are if they were less than 150 square feet or less than a thousand gallons. Ms. Dewez and a few group of neighbors spent a lot of time with the HDC talking about spas. Many of the issues with spa is that it is a very densely populated old historic district, are really zoning issues and repeatedly HDC Chair Ray Paul would say “Oh God we're back again these are zoning issues which is not our per view and we can't do anything about zoning issues”. Ms. Dewez investigated the size that would be reasonable for the kind of therapeutic use that most people like to have is hot tubs and spas. She investigated the zoning and looked at the definition that had been approved at a Special Town Meeting and a technical amendment in 2017 that defined a hot tub spa, it included a surface area criteria but not any kind of volume criteria. Ms. Dewez crafted a warrant article that would shrink the spa and reinstitute a volume restriction. Ms. Dewez talked to several groups such as the Town Association, the Nantucket Historical District Commission, and Nash the Preservation Trust and all suggested to see a ban in the Old Historic Districts. Ms. Dewez went back to the drawing board and came up with two articles, one is to propose a ban and if that doesn't work still want to have a tighter restriction in the old historic districts on what people can install as water features. **Ms. Dewez** questioned the procedural question if operating on Bob's Rules where everything goes through you or if someone has a question if she can answer it directly. **Chair Trudel** stated that he would rather have it go through the Chair especially in issues that may be a bit controversial so no direct comment between participants. **Mrs. Snell** confirmed that the Chair is opening the public hearing for both Articles 54 and 55. **Chair Trudel** stated yes. **Mr. Lowell** stated that last year passed same criteria that is currently allowed in ROH, R-1 and R-5 lots under 7500 square feet. **Mrs. Snell** stated that in SOH and ROH, swimming pools as they're defined in the bylaw are prohibited but in R-1 and R-5L those districts there's a

minimum lot size and setback for pools not prohibited, they have an extra set of criteria to meet. **Linda Williams** stated that she has a lot of clients who put them in for various reasons and what bothers her about this whole argument is the liberal use of the word reasonable, who are these people who decided what is reasonable what is not reasonable, that is not a criteria. **Ms. Williams** stated that we have no right to do stuff without asking the people that are most directly affected who pay 70 to 80 of our tax base and for somebody to sit around here and say what's reasonable. The word is so subjective and so interpreted so many ways by so many different people. It's wrong for the Planning Board to endorse this type of thing without a zoning wide survey on the people who most affected by it which are all mostly off island tax payers. **Ms. Dewez** stated that there is a survey ready to go to the entire list of addresses in the Old Historic Districts both of Nantucket and Sconset. **Joan Taylor** at 16 Mill Street, is concern in supporting the warrants that it's a slippery slope for HDC due to the development surrounding her area

and put in a terrible position by the lack of clarity between a pool and a spa. There has been a loop hole found and the plans that Ms. Taylor have submitted before the HDC have become difficult or contentious due to zoning issues. Ms. Taylor believes that it's up to the zoning to support so it removes HDC from this difficult position. **Chair Trudel** stated that this is the process for zoning. We as the Planning Board can give a positive or negative or take no action and it would go before the Town for a vote. **Jane Schnitzer** residing upper Main stated that it's not the visibility but the noise for many of the neighbors, the appeal of children's laughter if you will. **Linda Williams** stated that we are going to outlaw kids noise, didn't realize that was where we were headed and I'm taking great umbrage to that kind of argument because kids are fun they love being here they have a right to make noise and play just as much as all those kids that were in the pony field at thanksgiving playing tag football. **Ms. Williams** stated that none of the off-island people were contacted in the R-1s and R-5s. There was no survey for those people and this is not the way we conduct business here and not the way the Planning Board has ever done business. The survey that would affect an entire zoning district was never done for this. **Ron Winters** stated that he is a neighbor that abuts a pool and a builder on the island feels that there really isn't a concern because someone that wants a pool won't buy an in-town house however is opposed to music equipment. When putting an air condition, he made sure to put in a geothermal well because he didn't want to have his air conditioning units disturb his neighbors. Part of the charm of the Old Historic District is that it is old school Nantucket and it should remain that way. **Stephen Welch** stated that trying to build consistency and determinations that would be helpful to get a clear direction and changing the definition. **Henry Mueller** questioned what was permissible within the Historic District in terms of water feature which to him is an issue. A plan that can get a final determination and what Anne Dewez has proposed would be his request and recommendation. **Mrs. Snell** stated that before closing the public hearing that the proponent of the article did mention that although a survey had not been completed yet but it had been drafted that they were working with the Town Association so if you want to see the results of that you may want to continue the public hearing until later in the month. **Ms. Dewez** stated that the survey has been created and not sure where it stands at this point. **Mrs. Snell** stated that the last chance to make a recommendation on our schedule before the final warrant is printed is February 24th. **Mr. Rector** stated that he had a few questions. He asked if received any information in terms of number of police reports that would identify nuisance complaints regarding this issue in these districts. Ms. Dewez stated no. Feels that this is not about noise however a lot of nuisance that are associated with pools, light pollution, environmental pollution because people don't dispose of their water properly and the equipment. **Mr. Rector** asked if there was any thought about provisions being made for this as Special Permit for either medical or therapeutic uses that may need to be addressed in the process. **Ms. Dewez** stated that not necessarily opposed to a Special Permit however it would be a burden on the Planning Board. If the ban fails and people vote to put a maximum and volume restriction, why need a Special Permit. **Mr. Rector** is perplexed that this seems to be such an onerous issue for the HDC, Town Association but what fails me now is there's no representation from these individuals. Curious to know where these great burdens are coming from and what they are specifically dealing with. Asked if this has been vetted or brought forward through staff in terms of what type of questions that are being looked at, where the survey is going out to and that's where I think working with

staff who will tend to usually make these kinds of things a fair and equitable process seems to work well. **Ms. Dewez** stated that whatever happens whether there's a ban or whether there's a redefinition of what's allowed in the Old Historic District has no impact whatsoever on other districts so unclear about why talking about other districts. **Mrs. Snell, Mrs. Trudel and Mr. Vorce** have not had any discussion with Henry Terry about the survey. **Ms. Sutton** stated that she wanted to clarify that Ms. Dewez volunteered to help separate out ROH and SOH from the lists that may include R-1. Did read a letter from Holly Backus's group and they were in support of a ban in the ROH and the SOH fir reasons that noise was not one of them. **Mrs. Snell** stated that Article 55 absolutely does affect other zoning districts because it changes the definition of hot tub and spa and that's not specific to ROH and SOH. **Ms. Dewez** stated that the survey is constructed as a survey monkey, electronic survey which has a quick turnaround time and will

follow up. Mr. McClure stated that there is a letter from Holly Backus in the packet supporting Articles 54 and 55. **Mr. Lowell** stated that he understands the confusion. The Board can't fix the HDC perview but can fix what they must deal with also want to solve the complaining. The Board will need to decide on size and depth. **Mr. Rector** asked if there is a sense on the Board to give near deadline to see if they can get us any further with this, willing to take it to that level. **Chair Trudel** stated that he doesn't want to speak for the entire Board however confident that they will not get any more information in a timely manner.

Motion/Vote: Mr. Lowell moved to close the public hearing. The motion was duly seconded by Mr. McClure and the motion carried 4-1 (Mr. Rector opposed).

Vote taken by Roll Call:

Nat Lowell *Aye*
Fritz McClure *Aye*
Barry Rector *Nay*
Vice- Chair Iverson *Aye*
Chair Trudel *Aye*

Mrs. Snell confirming that the motion to close the public hearing was for both Articles. Chair Trudel stated yes.

Article 54 the merit:

Motion/Vote for Article 54: Mr. Lowell moved to take no action. The motion was duly seconded by. The motion was not seconded.

Chair Trudel entertain another motion.

Motion/Vote for Article 54: Vice-Chair Iverson made a motion to take no action. The motion was duly seconded by Mr. Lowell and the motion carried 4-1 (Mr. McClure opposed)

Vote taken by Roll Call:

Vice- Chair Iverson *Aye*
Nat Lowell *Aye*
Barry Rector *Aye*
Fritz McClure *Nay*
Chair Trudel *Aye*

Article 55 the merit:

Motion/Vote for Article 55: Mr. McClure made a motion to give a positive recommendation. The motion was duly seconded by. The motion was not seconded.

Chair Trudel entertain another motion.

Motion/Vote for Article 55: Mr. Lowell made a motion to take no action. The motion was duly seconded by **Vice-Chair Iverson** and the motion carried 4-1 (Mr. McClure opposed)

Vote taken by Roll Call:

Nat Lowell *Aye*
Vice- Chair Iverson *Aye*
Barry Rector *Aye*
Fritz McClure *Nay*
Chair Trudel *Aye*

Ms. Dewez thanked the Board for their time.

- **#44 Zoning Map Amendment** to place various properties on Red Mill Lane, Old Farm Road, Old Mill Court, Mill Hill Lane, and Vesper Lane currently located in the Residential-1 (R-1) district in the Residential-5 Limited (R-5L) district. (*Planning Board Sponsored*)

Mrs. Snell stated that R-1 was identified in the 2009 Master Plan to be phased out. These properties are proposing to put into R-5 zoning district. This would keep the uses consistent with what's allowed in R-1 and it would allow a little extra ground cover. Staff recommends supporting this article. **Chair Trudel opened the floor to the public.** **Ms. Williams** stated that all the lots have been sold, there are houses going up on the remainder all but one or two at the bottom of Red Mill.

Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by **Mr. Lowell** and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Nat Lowell *Aye*
Fritz McClure *Aye*
Vice- Chair Iverson *Aye*
Chair Trudel *Aye*

Motion/Vote: Mr. Rector moved to give a positive recommendation. The motion was duly seconded by **Mr. Lowell** and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Nat Lowell *Aye*
Vice- Chair Iverson *Aye*
Fritz McClure *Aye*
Chair Trudel *Aye*

- **#45 Zoning Map Amendment** to place properties at 114/112/103 Washington Street currently located in the Residential Commercial (RC) district in the Commercial Neighborhood (CN) district. (*Planning Board Sponsored*)

Mrs. Snell stated that the 2020 maybe 2021 Annual Town meeting there were a few properties surrounding this were rezoned from RC to CN. These property owners had requested to temporarily be removed which the Board did. Staff did hear from 103 Washington, Sayles Seafood that the property has a project underway, they don't quite have it permitted yet and they would like to be removed from this article this year with the understanding that they would go into CN district next year. Staff supports the removal for now. Staff recommends a positive recommendation for this article with the removal of 103 Washington Street and we'll clean that up at a future Town Meeting. **Chair Trudel** opened the floor to the public. No public comment was made. Chair Trudel entertain a motion to close the public hearing.

Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by Mr. Lowell and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Nat Lowell *Aye*
Vice- Chair Iverson *Aye*
Fritz McClure *Aye*
Chair Trudel *Aye*

Motion/Vote: Mr. Rector moved to give a positive recommendation with the removal of 103 Washington Street. The motion was duly seconded by Vice-Chair Iverson and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Vice- Chair Iverson *Aye*
Nat Lowell *Aye*
Fritz McClure *Aye*
Chair Trudel *Aye*

- **#46 Zoning Map Amendment** to place properties at 20/22/24/26/28 Bartlett Farm Road and 4 Moxies Way currently located in the Residential Commercial-2 (RC-2) district and properties at 3 & 6 Mioxes Way currently located in the Residential Commercial-2 (RC-2) and Limited Use General-2 (LUG-2) districts in either Residential 5 Limited (R-5L), Residential 5 (R-5), Residential 10 (R-10), or Residential 10 Limited (R-10L). (*Planning Board Sponsored*)

Mrs. Snell stated that the properties that are included in this are currently in the RC-2 zoning district. In the process of phasing out. Several of the properties are split between RC-2 and LUG-2, rezoning these properties would correct two things. It would help to phase out the RC-2 and it would correct the split lot zoning. Spoke to a couple property owners directly and all received the mailing that was sent out and they're in favor of being placed in an entirely Residential district. R-5L is the preferred district, it would remove the duplex option and it would keep all the properties conforming. **Ms. Sutton** stated that she would be in favor of the R-10L to keep lots a bit larger since this is farm land around here and conservation land behind it. Chair Trudel stated that by going to R-5 would not be able to do pool due to the minimum square footage and if R-10 you still can do a pool. Chair Trudel opened the floor to the public. No public comment was made. Chair Trudel entertain to close the public hearing.

Motion/Vote: Mr. McClure moved to close the public hearing. The motion was duly seconded by Vice-Chair Iverson and the motion carried unanimously.

Vote taken by Roll Call:

Fritz McClure *Aye*
Vice- Chair Iverson *Aye*
Barry Rector *Aye*
Nat Lowell *Aye*
Chair Trudel *Aye*

Motion/Vote: Mr. McClure moved to give a positive recommendation for all lots to go to R-5L. The motion was duly seconded by Vice-Chair Iverson and the motion carried unanimously.

Vote taken by Roll Call:

Fritz McClure *Aye*
Vice- Chair Iverson *Aye*
Barry Rector *Aye*
Nat Lowell *Aye*
Chair Trudel *Aye*

- **#47 Zoning Map Amendment** to place various properties on Clara Drive, Raceway Drive, and Somerset Road currently located in the Residential Commercial 2 (RC-2) district in either the Residential 5 Limited (R-5L), Residential 10 (R-10) or Commercial Trade Entrepreneurship and Craft (CTEC) district. (*Planning Board Sponsored*)

Mrs. Snell gave brief proposal of the zoning map amendment. The properties on the west side that are RC-2 go into R-5L, no duplexes and secondary dwellings by Special Permit. This would

likely restrict pools due to the size of the lot. Staff also recommends that the property closest to Hatch Circle go into R-10, which would be consistent with the development of those lots. **Ms. Sutton** stated that she would prefer CTEC in this area. Chair Trudel opened the floor to the public. Linda Williams stated that not all lots are residential lots and expressed concern with the three lots to make sure that they are not on the map. Mrs. Snell stated that the lots that Ms. Williams is referring to are not included in the warrant. Chair Trudel entertain a motion to close the public hearing.

Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by Vice-Chair Iverson and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Vice- Chair Iverson *Aye*
Fritz McClure *Aye*
Nat Lowell *Aye*
Chair Trudel *Aye*

Motion/Vote: Mr. Rector moved to give a positive recommendation and clarifying that 3 Raceway Drive, 1 Clara and 1A Clara go into R-5L zoning district and that 6 Raceway Drive go into CTEC zoning district. The motion was duly seconded by Mr. Lowell and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Nat Lowell *Aye*
Fritz McClure *Aye*
Vice- Chair Iverson *Aye*
Chair Trudel *Aye*

- **#48 Zoning Map Amendment** to place properties at 26 Bartlett Road and 1 Perry Lane currently located in the Residential Commercial 2 (RC-2) district in the Commercial Trade Entrepreneurship and Craft (CTEC) district. (*Planning Board Sponsored*)

Mrs. Snell stated that this is a cleanup from prior years when the property owners had requested to be removed from the article to give them time to implement their permits, that now has been completed so staff recommend that the Board move forward with putting 26 Bartlett Road and 1 Perry Lane in the CTEC zoning district along with the properties that are already in CTEC abutting them. Chair Trudel opened the floor to the public. No comments were made. Chair Trudel entertain a motion.

Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by Mr. Lowell and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Nat Lowell *Aye*
Vice- Chair Iverson *Aye*
Fritz McClure *Aye*
Chair Trudel *Aye*

Motion/Vote: Mr. Rector moved to give a positive recommendation. The motion was duly seconded by Vice-Chair Iverson and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Vice- Chair Iverson *Aye*

Nat Lowell *Aye*
Fritz McClure *Aye*
Chair Trudel *Aye*

- **#49 Zoning Map Amendment** to place properties as 12, 14, and 19 Nobadeer Farm Road and 1/1A/3 Sun Island Road currently located in the Residential Commercial 2 (RC-2) district in the Commercial Neighborhood (CN) district. (*Planning Board Sponsored*)

Brief discussion of the proposal. **Chair Trudel** asked for clarification on the draft article that it should read Nobadeer Farm Road. Mrs. Snell stated yes it should say Nobadeer Farm Road. Mrs. Snell stated that the properties that are included are isolated pocket in RC-2 that's left along Nobadeer Farm Road. They are all used commercially or subject to Special Permits. Staff suggesting that they all go from RC-2 to CN. This will continue to preserve a commercial node in this area which is part of the Master Plan. Staff recommends supporting the way the warrant is written. **Chair Trudel** stated that for clarification he used to own 3A Sun Island and that its subdivided into 3 and 3A and that in the description its listing as 3 Sun Island but it's really divided down the middle. **Chair Trudel** wanted to make sure for the article that the sponsor has the right addresses in it are inclusive of the 3A or that its removed from it. **Mrs. Snell** stated that whatever is shown in the pink that's still RC-2, if we need to correct the parcel listing as part of a motion we can do that. Chair Trudel opened the floor to the public. No comments were made. **Chair Trudel** entertain to close the public hearing.

Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by Vice-Chair Iverson and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Vice- Chair Iverson *Aye*
Nat Lowell *Aye*
Fritz McClure *Aye*
Chair Trudel *Aye*

Motion/Vote: Mr. Rector moved to give a positive recommendation with the corrections that was just discussed. The motion was duly seconded by Mr. Lowell and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Nat Lowell *Aye*
Fritz McClure *Aye*
Vice- Chair Iverson *Aye*
Chair Trudel *Aye*

- **#50 Zoning Bylaw Amendment** to amend the definition of "Tertiary Dwelling" in Section 2A to increase the allowable gross floor area from 650 square feet to 900 square feet. (*Planning Board Sponsored*)

Chair Trudel stated that in the past meetings this has been something that's come up and reluctantly we've had to give a negative endorsement from things because of the tertiary exceeding the 650 square feet whether it be by a few feet or whether it by a hundred feet and I've stated often that I mean quality of life is important and I'm in favor of an increase but because of procedure I had always been opposed to it so if this number square footage represents what the Board would like to see I think it makes it easier and I would continue to vote for future decisions that come before us with that 900 feet and I think by raising it if somebody before the Board with a 950 square feet I would still take the same position that I have in the past when we've exceeded the 650 if that's all clear. **Mrs. Snell** stated that this is a

zoning bylaw amendment to amend the definition of tertiary dwelling and to change the maximum gross floor area that's currently 650 square feet to 900 square feet and the way it's drafted that would apply to any type of tertiary dwelling. Mr. Lowell stated that this is the right way to go and it cleans up. **Vice-Chair Iverson** stated that this came about from the Affordable Housing Trust. Spoke with Andrew and wanted to come up with ideas to help provide more bedrooms and it's important to realize that an additional 900 square feet means another bedroom and another bedroom in a tertiary dwelling means more housing. **Ms. Sutton** stated that she was personally shocked to see 900 square feet. Not in favor of this size unless it's specific to some lots. Appropriate in areas that are in the R-20, R-40 and the LUGs. Finds that 900 square feet is quite large for a tertiary dwelling. **Chair Trudel** stated for clarification the 900 square feet living area not gross square footage on a lot. **Mrs. Snell** pointed out Ms. Sutton's concerns about the R-5 and the R-10 in the R-5, R-10 and the R-20 there's a maximum bedroom count for the whole property so you may be able to fit an extra bedroom into the tertiary doesn't mean you can increase the total number of bedrooms for the lot. **Stephen Welch** stated that it is an important point. Mr. Welch would like to make an argument to increase this to a thousand square feet minimum. Feels that it's not fair for the Planning Board in a community that is looking and stressing under affordable or year-round housing under pressures that this community is suffering this type of dwelling unit represents one of the few starter family type dwelling units or housing opportunities. Other things to keep in mind is the number of parking space or the number of bedrooms. 900 is in the right direction however starting at thousand square foot is a better start. Mrs. Snell stated that anything over 900 square feet is outside the scope of the article. The Board can reduce however cannot increase it. **Linda Williams** stated that she supports everything that Mr. Welch said. Supports this whole heartedly. **Chair Trudel** entertain a motion to close the public hearing.

Motion/Vote: Mr. Lowell moved to close the public hearing. The motion was duly seconded by Mr. Rector and the motion carried unanimously.

Vote taken by Roll Call:

Nat Lowell *Aye*
Barry Rector *Aye*
Fritz McClure *Aye*
Vice- Chair Iverson *Aye*
Chair Trudel *Aye*

Motion/Vote: Mr. Lowell moved to give a positive recommendation with the corrections that was just discussed. The motion was duly seconded by Vice-Chair Iverson and the motion carried unanimously.

Vote taken by Roll Call:

Nat Lowell *Aye*
Vice- Chair Iverson *Aye*
Fritz McClure *Aye*
Barry Rector *Aye*
Chair Trudel *Aye*

Chair Trudel would like to move Article #51 towards the end and move forward with Article #53.

- **#53 Zoning Bylaw and Map Amendments** to make changes to the definitions in Section 2A of "Accessory Dwelling" to increase the maximum size from 550 square feet to 800 square feet, "Apartment" to clarify where apartments may be located on a commercial property, "Take-Out Food Establishment" to include food trucks, and "Tent" to allow extensions of allowed time periods by special permit; to add a special permit allowance in Section 16D to waive compliance with the "regularity factor" required for lots; to amend Section 20.1B(2)(h) to include tertiary dwellings and garage apartments and to remove the reference to the Rules and Regulations

Governing the Subdivision of Land; to place portions of properties located on Beach Grass Road and Old South Road currently located in the Commercial Neighborhood (CN) district in the Residential 5 (R5) district; and to place a portion of property located on Beach Grass Road currently located in the Residential 5 (R-5) district in the Commercial Neighborhood (CN) district. *(Planning Board Sponsored)*

Mrs. Snell did an overview of definition changes. Chair opened the floor to the public. Emily Molden for the Nantucket Land Council clarification on the number two about tertiary dwelling requirements on secondary lots that the Special Permit allowances could waive the requirement for one of the dwellings to be essentially a tertiary dwelling. It doesn't change the amount of ground cover on the lot but would essentially end up with a primary dwelling and then two secondary dwellings if one's not required to meet the tertiary dwelling definition. **Mrs. Snell** stated that the way the Bylaw is written now when you do the secondary lot you have to keep the original primary on one lot and then another dwelling unit can be located on the covenant lot and the market rate lot is only allowed to have a secondary dwelling subject to tertiary standards. The current language doesn't allow to keep your primary dwelling and secondary dwelling on the same lot unless that secondary dwelling meets the definition of tertiary. **Mrs. Snell** suggested that the Board either continue this for more discussion due to a lot of concerns with item three and send her some ideas about what to include that's beyond what she drafted and she will see if it's substantive and beyond the scope or not or that the Board vote to take number three and give it a lot more thought and add it in another year. **Chair Trudel** opened the floor to the public. **Linda Williams** stated that the regularity factor has nothing to do with lot size **Mrs. Snell** stated that it deals with the shape of the lot. Mrs. Snell stated that the Board can make a motion to recommend the article and to strike item number three and your motion would show all of item three and strikeout. **Emily Molden** from Nantucket Land Council will hold any comments until the next meeting.

Motion/Vote: Mr. Rector motion to continue this discussion to the February 7th meeting. The motion was duly seconded by Mr. Lowell and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

Fritz McClure *Aye*

Vice- Chair Iverson *Aye*

Chair Trudel *Aye*

- **#56 Zoning Bylaw Amendment** to amend the definition of "Swimming Pool – Residential) in Section 2A to eliminate the minimum lot size and setback requirements for a swimming pool in the Residential 1 (R-1), Sconset Residential 1 (SR-1), Residential 5 (R-5), and Residential 5 Limited (R-5L) and to reflect those same changes in the "Use Chart" in Section 7A. *(Citizen Sponsored Article - L. Williams)*
- **#57 Zoning Bylaw Amendment** to amend the definition of "Swimming Pool – Residential) in Section 2A to reduce the minimum lot size requirement for a swimming pool in the Residential 1 (R-1), Sconset Residential 1 (SR-1), Residential 5 (R-5), and Residential 5 Limited (R-5L) from 7,500 square feet to 6,000 square feet and to reflect that same changes in the "Use Chart" in Section 7A. *(Citizen Sponsored Article – L. Williams)*

Linda Williams stated that the article was unfair for 150 people to vote on this last year, a lot of people left before this came up. Article proposed by someone who does not live in any of these districts without ever speaking to any of the residents affected by the amendment. The Planning Board usually notifies the people who are affected. No one was notified and informed of this. These people were not aware of it and they don't have representation. The Planning Board tradition and habit and practice has been to notify everybody in those zones that are affected and that did not happen. Ms. Williams would like to rescind and do the process

correctly. **Chair Trudel** questioned if there was a survey done for this zoning. Ms. Sutton questioned if Linda is representing the non-voting property owners in these areas as her client. Ms. Williams stated that she is not representing a specific client. Vice-Chair Iverson stated that the property owners had every opportunity and plenty of time for them to figure out if they were truly interested in protecting their property rights. Mr. Rector suggested that they get the Conservation Commission, Historical Commission and Historic District Commission and Planning Board together and solve problem areas and see if there are some levels of solution.

Motion/Vote: Mr. Lowell moved to close the public hearing. The motion was duly seconded by Vice-Chair Iverson and the motion carried unanimously.

Vote taken by Roll Call:

Nat Lowell *Aye*
Vice- Chair Iverson *Aye*
Barry Rector *Aye*
Fritz McClure *Aye*
Chair Trudel *Aye*

Motion/Vote: Mr. Lowell moved to take no action on Article 57. The motion was duly seconded by Mr. McClure and the motion carried unanimously.

Vote taken by Roll Call:

Nat Lowell *Aye*
Fritz McClure *Aye*
Barry Rector *Aye*
Vice- Chair Iverson *Aye*
Chair Trudel *Aye*

- **#59 Zoning Bylaw Amendment** to allow storage containers as a use allowed by Special Permit in the Commercial Mid Island (CMI) district. (*Citizen Sponsored Article – L. Williams*)
Linda Williams gave a summary of the proposal. CMI left out. Mrs. Snell stated that the Planning Board position is that the CMI is totally different from the CN and the CTEC and the CI. The mid-island have different type of uses, they have restaurants and apartments with small lots. Commercial shed is more appropriate for CMI than the storage container. Chair Trudel opened the floor to the public.

Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by Mr. McClure and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Fritz McClure *Aye*
Nat Lowell *Aye*
Vice- Chair Iverson *Aye*
Chair Trudel *Aye*

Motion/Vote: Mr. Rector moved to give a positive recommendation. The motion was duly seconded by Mr. Lowell and the motion carried 2-3 (Mr. McClure, Vice-Chair Iverson and Chair Trudel opposed).

Vote taken by Roll Call:

Barry Rector *Aye*
Nat Lowell *Aye*
Fritz McClure *Nay*
Vice- Chair Iverson *Nay*
Chair Trudel *Nay*

The motion does not pass.

Ms. Williams requested that the Board take no action.

Motion/Vote: Mr. Rector moved to take no action. The motion was duly seconded by Mr. Lowell and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

Fritz McClure *Aye*

Vice- Chair Iverson *Aye*

Chair Trudel *Aye*

- **#51 Zoning Bylaw Amendment** to amend Section 2A by adding a new definition for “Tertiary Lot” and Section 8 “Development Options” by adding a new subsection for tertiary residential lots to be allowed by special permit in certain zoning districts for the purpose of creating additional housing opportunities for households earning at or below 150% of the Nantucket County median household income. (*Planning Board Sponsored*)

Mrs. Snell stated that Article 51 is a zoning bylaw amendment to add a new option to create a covenant lot and it’s called the tertiary lot, so the concept is like secondary lot. This would allow you to divide one lot into three one lot. One lot would be market rate and the other two lots would be subject to the covenant and just like with the secondary program if it doesn’t have an increase in ground cover or a decrease in setback the density of the lot stays the same on your original lot. The intent is to provide another option for income restricted covenant lots to be created. **Vice-Chair Iverson** stated that he supports this article. Not adding ground cover, everything stays the same and urge the Board to give a positive recommendation. **Mr. Welch** stated that this should be expanded to any zone where tertiary dwelling is allowed. **Chair Trudel** is in support of this article. Ms. Sutton stated that this is great for these districts. Mr. Welch stated that there are a few elderly residents on Nantucket who would prefer to live in a small structure which will allow them to qualify under the housing needs program. Chair Trudel opened the floor to the public. Emily Molden for the Nantucket Land Council had a technical question about the tertiary definition referencing Section 139-C instead of 8d. Mrs. Trudel stated that 8C is the existing bylaw to create the Secondary residential lots and 8D is Workforce housing. Mrs. Snell stated that it is a typo and that it should be 8D as the reference because the item number two it’s basically creating a new subsection d and then re-lettering everything after that. Will make those amendments. Linda Williams finds this as an interesting idea and that there are some actual logistical realities. Ms. Williams mentions the lots that are on septic if sufficient for the number of bedrooms allowed. Chair Trudel entertain to close the public hearing.

Motion/Vote: Vice-Chair Iverson moved to close the public hearing. The motion was duly seconded by Mr. McClure and the motion carried unanimously.

Vote taken by Roll Call:

Vice- Chair Iverson *Aye*

Fritz McClure *Aye*

Nat Lowell *Aye*

Barry Rector *Aye*

Chair Trudel *Aye*

Motion/Vote: Mr. Lowell moved to give a positive recommendation. The motion was duly seconded by Vice-Chair Iverson and the motion carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Vice- Chair Iverson *Aye*
Fritz McClure *Aye*
Nat Lowell *Aye*
Chair Trudel *Aye*

IV. Other Business:

- Chair Trudel acknowledge the passing of John O'Connor who owned and operated the Atlantic Café and asked to keep John and his family in their prayers.
- **Special Planning Board meeting (Warrant Articles) Monday, February 7, 2022 @ 4:00PM via Zoom**
- **Regular Planning Board meeting Monday, February 14, 2022 @ 4:00PM via Zoom**

V. Adjournment:

Mr. Rector moved to adjourn the at 8:33PM. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0

Vote taken by Roll Call:

Barry Rector *Aye*
Nat Lowell *Aye*
Vice-Chair Iverson
Fritz McClure *Aye*
Chair Trudel

Submitted by:
Catherine Ancero