



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, May 12, 2022

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

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

Staff in attendance: Leslie Snell, Deputy Director of Planning; Nicky Sheriff, Administrative Specialist
Attending Members: McCarthy, Botticelli, O’Mara, Allen, Poor, Mondani
Absent: Toole, Thayer

Agenda adopted by unanimous consent

Motion **Motion to Approve as drafted.** (made by: Botticelli) (seconded)
Vote Carried unanimously

I. APPROVAL OF MINUTES

1. April 14, 2022

Motion **Motion to Approve as drafted.** (made by: Botticelli) (seconded)
Vote Carried unanimously

II. OLD BUSINESS

1. 37-21 Kristina & Nicholas Amendolare 8 Bank Street Wilson

Applicants are seeking a Special Permit pursuant to Zoning Bylaw Sections 139-30 and 139-33A to make renovations, including an addition, to a single-family dwelling that is pre-existing non-conforming to the setbacks. Locus is situated at 8 Bank Street, shown on Assessor’s Map 73 and Parcel 69. Evidence of owner’s title is recorded in Book 1770, Page 216 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Old Historic (SOH).

Voting McCarthy, Botticelli, O’Mara, Allen, Mondani
Alternates Poor

Recused

Documentation File with associated plans, photos and required documentation

Representing Michael Wilson, Attorney
Wayne McArdle, McArdle Gannon Associates

Public Jonathan Fitch, for 9 Broadway, LLC owner of 9 Broadway and 9 Front Street
Clement Durkees, President ‘Sconset Trust

Discussion (1:06) **Wilson** – Reviewed additional information as requested by the Board.

McArdle – Reviewed his recommendations regarding shoring and construction protocols for the basement. The bottom of the excavation is 11.7. It takes about 2 weeks to do the set-up work prior to pouring the foundation. The pilings will be steel driven with vibratory hammer.

Allen – She wants the shoring system cutoff below grade so as not to be visible. Thinks 2 weeks is too long for neighbors to deal with; in her opinion, it should be done in 3 days.

Botticelli – The wall along Beach Street (aka Middle Gulley Road) is a rubble wall; asked if there is a proposal to support it (no).

O’Mara – Asked where the discharge from dewatering will go (unknown). He too is concerned about the distance between the existing rubble retaining wall and the property.

McArdle – We haven’t looked at that wall yet.

McCarthy – Once they analyze and discover what’s going on with the wall, she wants them to repair or restore the wall to maintain its integrity.

Botticelli – She’d like the evaluation of the rubble wall be done prior to work.

Discussion about the retaining wall and whether or not it needs to be reinforced and protected from vibration.

Mondani – Asked if the Building Department is involved in this and how much. It’s 2 Town roads, asked if the Town is involved.

Wilson – He doesn’t know if Beach Street has enough traffic to warrant a street closure. DPW will have to weigh in regarding the Town road. The engineering is reviewed by the Building Department.

McCarthy – The concern is that with the vibration at elevation 25-29 could be disturbed and there are no pilings to support it. If it's compromised, the integrity street becomes an issue.

O'Mara – We could condition that the applicant have a licensed engineer on site at various intervals. The Town could send in the Town engineer to check the roads prior, during, and after construction.

Botticelli – There seems to be no concern with granting the relief; concerns are how this work will be done in such a tight lot.

McCarthy – We can require a project manager contact number for the neighbors. We can restrict this with no work between Memorial Day and Columbus Day.

Fitch – 9 Front Street directly abuts this property; our primary concern is the McArdle plan doesn't consider the direct impact of this work on surrounding properties. If there were damage done to Beach Street and it collapsed, there is a risk the public water supply will be damaged; it is an emergency access. Our engineer review Mr. McArdle's plan and submitted a "zone of influence" that could be impacted by vibrations; that zone included Beach Street and 9 Front Street. The ZBA has to make a decision if this project will be more detrimental to the neighborhood than current conditions. If historic Beach Street and my client's property collapse due to construction, that makes this more detrimental to the neighborhood. Our engineers have laid out the possible impacts. There is no provision within the McArdle report about monitoring the impact on neighbors. Feels there needs to be an escrow account established to cover the cost of damage to the road, homes to the west, and loss of public water.

Durkees – Given what Mr. Fitch represented and what she's heard from the abutters; no one will be in the houses during the winter and so unable to monitor damage to their properties. Beach Street is an emergency access to Codfish Park. Abutters have written letters about their concerns. This work affects all of Sconset; the environmental impact needs to be considered.

McCarthy – In addition to the houses, she's hearing a very real concern of what happens to the road if the bank is compromised. She wants more information about what would be done should the bank be compromised.

Allen – She's not opposed to the house, but we might need to consider how this work could be done without the heavy machinery; for example, it might be done by hand. The heavy machines are pounding and reverberating throughout the neighborhood. The vibratory hammer reverberates. Wants them to come up with some means that won't shake the earth and impacting the historic neighborhood. No one should park on Beach Street during construction.

Botticelli – Suggested drilling. No one has problems with the architecture or relief requested; it's the potential damage from vibrations and shaking. She'd also like to see a letter from the Water Company ensuring they have seen the plans.

O'Mara – We could require a bond for possible damage to the road.

Wilson – Wants it on the record that Mr. Fitch's report shows the "approximate" zone of influence.

McCarthy – The May 10th MRCE report provides recommendations on what would better protect the zone of influence. With a continuance, we're looking for other options such as drilling, protecting Beach Street during construction, insurance bonds and escrow, a landscape plan showing existing and proposed retaining walls, information from the DPW, information who will be managing this project, and a list of homes to be surveyed pre-construction. Also bring the architect.

Motion **Motion to Continue to June 9, 2022.** (made by: Botticelli) (seconded)

Vote Carried unanimously

2. 22-21 Adam Delaney-Winn, Trustee of Warren's Landing Nominee Trust 40 Warrens Landing Road Reade

Continued to June 09, 2022

Voting McCarthy, Botticelli, O'Mara, Allen, Mondani

Alternates Poor

Recused None

Documentation None

Representing None

Public None

Discussion (2:16) None

Motion **Motion to allow the continuance.** (made by: O'Mara) (seconded)

Vote Carried unanimously

III. NEW BUSINESS

1. 06-22 1010WINS, LLC 10 Lincoln Avenue Reade

Applicant is seeking a Special Permit pursuant to the Zoning Bylaw Section 139-33 for preexisting nonconforming structures. Specifically, applicant proposes to lift and add new foundation and move the existing building, which has an existing roof peak that exceeds 30' in addition to altering the existing dormers. Locus is situated at 10 Lincoln Avenue, shown on Assessor's Map 30 as Parcel 184 and upon Plan Book No. 15 Page 28. Evidence of owner's title is recorded in Book 516, Page 139 on file at the Nantucket County Registry of Deeds. The site is zoned Residential 1 (R-1).

Voting McCarthy, Botticelli, O'Mara, Allen, Poor

Alternates Mondani

Recused (Botticelli, Allen if opened they would have to recuse)

Documentation File with associated plans, photos and required documentation

ZBA Minutes for May 12, 2022, adopted July 14

- Representing Public: Marianne Hanley, Reade, Gullicksen, Hanley, & Gifford LLP
- Discussion (2:28): **O'Mara** – Disclosed that he represented the seller of this house, but he no longer has financial interest. (July 14th, Mr. O'Mara corrected his disclosure; he did not represent the seller of this house.)
Held for Ms. Hanley to discuss with applicant regarding moving forward with a 4-person board.
Hanley – Asked for a continuance without opening for a full board.
- Motion: **Motion to Continue to June 9, 2022.** (made by: Botticelli) (seconded)
- Vote: Carried unanimously
- 2. 07-22 265 Madaket Road, LLC 265 Madaket Road Ewing
Applicant is seeking a Special Permit pursuant to Zoning Bylaw Section 139-2A and Section 139-7A to construct a residential swimming pool on the locus. Locus is situated at 265 Madaket Road, shown on Assessor's Map 59.4 as Parcel 319 and as Lots 118-123 upon Land Court Plan 3092-S. Evidence of owner's title is registered on Certificate of Title No. 27365 with the Nantucket County District of the Land Court. The site is zoned Village Residential (VR).
- Voting Alternates: McCarthy, Botticelli, O'Mara, Allen, Poor Mondani
- Recused: None
- Documentation: File with associated plans, photos and required documentation
- Representing Public: Victoria Ewing, LINK
- Discussion (2:22): **Ewing** – Proposed a residential swimming pool in the VR district on a 30,000 square-foot (sf) lot. Have HDC approval. Equipment will be in the garage.
McCarthy – Reviewed conditions attached to the 6 Macy Special Permit that would be attached to this permit. There is a code for noise, but we didn't include it in that decision.
- Motion: **Motion to Approve the special permit as permitted with the conditions read by Ms. McCarthy.** (made by: Botticelli) (seconded)
- Vote: Carried unanimously

IV. OTHER BUSINESS

1. Discussion about in-person meetings versus hybrid; June meeting will be via ZOOM due to lack of meeting space.
2. McCarthy – Across several boards there have been instances where board members have spoken out on certain issues and identified themselves with Town boards. If speaking on a subject, board members should identify as a citizen, not as a board member, unless you have been designated as a representative by the Board.
3. Discussion about protocol regarding speaking on a project when recused.

V. ADJOURNMENT

- Motion: **Motion to adjourn at 2:42** (made by: Mondani) (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