



Nantucket Planning Board

Nantucket Planning Board APPROVED Minutes
Public Safety Facility Community Room
(First Floor)
June 12, 2023 @ 4:00 PM

Webinar Registration Link:

https://us06web.zoom.us/webinar/register/WN_R51QZ8I3Som1EAtD-X83A#/registration

**The Planning Board meeting will be audio and video recorded*

Board Members: David Iverson (Chair), Joseph Topham (Vice-Chair) (ABSENT), John Trudel, III, Nat Lowell, Barry Rector

Alternates: Stephen Welch, Carl Borchert, Abby De Molina

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

PLANNING BOARD APPROVED MINUTES 06-12-2023

(Subject to change)

Please list below the topics the chair reasonably anticipates will be discussed at the meeting.

***The complete text, plans, application, or other material relative to each agenda items are Available for inspection at the Planning Office at 2 Fairgrounds Road between the hours of 8:30 AM and 4:30 PM**

I. Call to order:

Dave Iverson, the new Chair, introduced himself and mentioned that Joe Topham, the new Vice-Chair would not be present. Chair Iverson called the meeting to order at 4:02PM.

Chair Iverson stated that the meeting was being conducted at Zoom to allow public participation. Attendees were required to register, and the registration link was provided on the Nantucket PV YouTube feed and the meeting agenda. Attendees could listen in and raise their hands to speak, with the Chair calling on them in the order they raised their hands. All questions had to be directed through the Chair.

Roll call of those participating:

Board members and Alternates:

John Trudel *Aye*

Nat Lowell *Aye*

Stephen Welch (Alternate) *Aye*

Barry Rector *Aye*
Carl Borchert (Alternate) *Aye*
Dave Iverson *Aye*

Planning Board Staff:

Megan Trudel *Aye*
Catherine Ancero *Aye*
Billy Saad *Aye*

Chair Iverson acknowledged the large number of anticipated speakers for the public hearings, which exceeded 20. Chair Iverson stated that due to the time constraints, he would skip the list of anticipated speakers. He requested the participants to speak clearly and in a manner that would facilitate the generation of accurate information.

II. Approval of the agenda:

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

Vote taken by Roll Call:

John Trudel *Aye*
Barry Rector *Aye*
Nat Lowell *Aye*
Dave Iverson *Aye*

III. Minutes:

- **May 6, 2023 (2023 ATM Day 1 of 2)**
- **May 8, 2023 (2023 ATM Day 2 of 2)**
- **May 8, 2023**
- **March 20, 2023**

Mr. Rector moved to approve the set of minutes listed above. The motion was duly seconded by Mr. Trudel and the motion was carried unanimously 4-0.

Vote taken by Roll Call:

Barry Rector *Aye*
John Trudel *Aye*
Nat Lowell *Aye*
Dave Iverson *Aye*

IV. Secondary Dwellings:

- **Julie & Matthew Reinemo – 2 Eli Place – *SEE PUBLIC HEARING***
It was mentioned that this item would be discussed in a public hearing.

V. Tertiary Dwellings:

- **Surfside 13 ACK LLC – 13 Surfside Drive – *SEE PUBLIC HEARING***
This item would be discussed in a public hearing.
- **NOB ACK LLC - 2 Nobadeer Way**

Mrs. Trudel stated that the tertiary dwelling at 2 Nobadeer Way had been accidentally omitted from the previous agenda and was included in the current agenda. The item is not a public hearing but a standard tertiary dwelling approval. Mrs. Trudel stated that the dwelling fell under certain limitations but had a freeze plan in place, allowing it to proceed. The recommendation was to approve the proposed tertiary dwelling.

Motion/Vote: Mr. Trudel moved to approve all the second dwellings, garage apartments and the tertiary dwellings. The motion was duly seconded by Mr. Rector and the motion was carried unanimously 4-0.

Vote taken by Roll Call:

John Trudel *Aye*
Barry Rector *Aye*
Nat Lowell *Aye*
Dave Iverson *Aye*

VI. Public Hearings (Applications):

- **ACK Mid Island, LLC & ACK Offices, LLC – 18, 18A, 20, 22, 24 & 26 Sparks Avenue,**
*action deadline 06-30-2023, **REQUEST TO CONTINUE***

Motion/Vote: Mr. Rector moved to accept the continuance. The motion was duly seconded by Mr. Rector and the motion was carried unanimously 4-0.

Vote taken by Roll Call:

Barry Rector *Aye*
John Trudel *Aye*
Nat Lowell *Aye*
Dave Iverson *Aye*

- **181 Polpis Road Realty Trust, 181R Polpis Road,** *action deadline 09-10-2023*

Voting: David Iverson (Chair), John Trudel, Nat Lowell, Barry Rector

Alternates: Stephen Welch, and Carl Borchert

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: Abby De Molina

Representing: Attorney Rick Beaudette

Discussion: Attorney Beaudette addressed the Board on behalf of the contract purchaser of the property. He mentioned that the owner, Jesse Brasher was on vacation so he was presenting the application instead. The property in question belonged to the Mac family and they owned all four lots that were included in the application. One of the lots, Lot 2, had been designated as a covenant lot in 2012 while Lot 1 was a market rate lot. Attorney Beaudette stated that his client wishes to purchase Lot 4 and merge it with their own lot instead of the lots owned by the Mac family. The issue with a previous decision is two folds. The first is that Lot 4 is included in the decision unnecessarily and should be merged with the client's lot, and second, the decision declares Lot 4 as unbuildable, which Attorney Beaudette disagrees with stating that a small portion of it could be used. Attorney Beaudette stated that he filed a request to remove the unbuildable designation from the decision and to ensure Lot 4 is not included in the decision. The goal is to amend the decision accordingly. Mr. Trudel stated that once it is conveyed the information that the lot is allowed to be built on the change will increase the ground cover availability for the abutter. He mentions that there are no known issues with building on wetland areas or conservation concerns. Mr. Trudel expressed concern about the potential restrictions on future subdivisions if the lot is approved for building. Mr. Trudel gave a scenario of putting a dwelling on the lot and then subdividing and selling it off. Attorney Beaudette stated that they are not currently proposing such actions. He expressed to make it a condition if deemed necessary. Attorney Beaudette stated that the purpose of their efforts is to increase ground cover. Mr. Trudel stated that he agrees with the proposal, and he has no problem with it. He understands the intent behind it and emphasized the importance of being transparent to the public and avoiding any hidden agenda for the future sub-development. Chair Iverson opened the floor to the public. Emily Molden from the Nantucket Land Council had a few questions regarding a request or proposal. Ms. Molden questioned the original special permit and whether the conditions outlined in it were being met, particularly concerning

the dwellings on other lots. Ms. Molden mentioned that Lots three and four being deemed non-buildable due to wetlands. However, she was confused as to why this was listed as a condition and what was discussed during the previous approval hearing. Mr. Lowell stated that it could be various factors, including family situations and the value of the land despite it being unbuildable. Mr. Lowell viewed this situation as an evolving way to utilize land, even though it would remain open. He stated that this is a family decision enabling them to keep their property. Ms. Molden expressed her concern about the previous decision that conditioned the lot to be non-buildable. She wanted to understand the reasons behind that condition and whether undoing it would be appropriate. Mr. Trudel stated that he was not on the Board in 2012 when the decision was made and therefore is not familiar with the details. He stated that most of the subdivisions appear to be buildable based on the current situation. Mr. Trudel stated that the proposed application is not offensive because it involves wetlands and would increase ground cover. He would like to include in the findings to prohibit future subdivision. Attorney Baudette stated that this application was not meant to deceive the public with a hidden agenda and considered it a reasonable proposal. Attorney Baudette stated that it may not be possible to construct a building from the other side of the lot since the Wetland extends up to the lot line. It was said that there is no change or increase in ground cover and consider the potential danger to be minimal. Mrs. Trudel mentioned that she reviewed the minutes from a previous meeting and found that the two lots in question were labeled as unbuildable and it was based on the way the applicant initially applied.

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

Vote taken by Roll Call:

John Trudel *Aye*

Barry Rector *Aye*

Abby De Molina *Aye*

Nat Lowell *Aye*

Chair Dave Iverson *Aye*

Motion/Vote: Mr. Trudel made a motion to approve the application with two new findings. The first finding is that the Applicant's request is in harmony with the intended purpose of the Zoning Bylaw, the second finding is to prohibit future subdivision. Mrs. Trudel stated point of order, noting that someone needs to be activated. Ms. De Molina is activated. Mr. Trudel stated his motion. The motion was duly seconded by Mr. Rector and the motion was carried unanimously.

Vote taken by Roll Call:

John Trudel *Aye*

Barry Rector *Aye*

Abby De Molina *Aye*

Nat Lowell *Aye*

Chair Dave Iverson *Aye*

• **Julie & Matthew Reinemo – 2 Eli Place, *action deadline 07-09-2023***

Voting: David Iverson (Chair), John Trudel, Nat Lowell, Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: None

Discussion: Mrs. Trudel stated that this has been postponed several times due to in-person and Town Meetings. Mrs. Trudel offers to present the information and suggest considering an alternative if there are any questions that she cannot answer. Mr. Trudel stated that this plan involves two aspects, one is a request for a rear lot special permit and the other is a request for a second dwelling. The proposal involves converting an AR subdivision into a rear lot to incorporate a roadway lot and accommodate a second dwelling. Planning staff sees no issues with the request and recommends approval of standard

second dwelling conditions and compliance with all dimensional requirements. Mr. Lowell indicated that they have already reviewed the proposal and understand the situation. Mr. Lowell stated that this new approach is a better option. Chair Iverson opened the floor to the public. Mrs. Trudel stated that this is a public hearing and an alternate need to be activated for the Special Permit component and for the second dwelling component will only involve the four existing Board members. There was no public comment.

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

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

John Trudel *Aye*

Stephen Welch *Aye*

Chair Dave Iverson *Aye*

Motion/Vote: Mr. Rector made a motion to approve the conversion of an AR subdivision into a rear lot subdivision and with the findings and conditions outlined in the staff report. The motion was duly seconded by Mr. Trudel and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

John Trudel *Aye*

Nat Lowell *Aye*

Stephen Welch *Aye*

Chair Dave Iverson *Aye*

Secondary Dwellings:

Julie & Matthew Reinemo – 2 Eli Place

Motion/Vote: Mr. Rector made a motion to approve the second dwelling application in accordance with the conditions outlined in the staff report. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

John Trudel *Aye*

Chair Dave Iverson *Aye*

Mr. Lowell asked whether the applicant will come in for an ANR application next month. Mrs. Trudel confirms that they will have to do so before becoming eligible for a building permit for the second dwelling.

- **Sandpiper Place I (South) Workforce Homeownership Development, 4 Bluet Court, *action deadline 09-10-2023***

Sandpiper Place II (North) Workforce Homeownership Development, 26 Honeysuckle Drive, *action deadline 09-10-2023*

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: Carl Borchert

Representing: Attorney Andrew Burek

Discussion: Mrs. Trudel suggests discussing both applications together as they are interdependent. The purpose of this application is to amend the Special Permits for both developments. The goal is to exchange a lot between Sandpiper I and Sandpiper II, converting a formally 175 percent restricted market rate into a market rate in Sandpiper I while making the market rate in Bluet Court portion of the subdivision restricted at the same AMI level of 175 percent. Chair Iverson asked whether approval was sought from the DHCD. Attorney Burek stated that this portion of the program the local initiatives is only administered through the Town and approval was sought from Director Tucker Holland. Attorney Burek stated that assuming a favorable approval through the Special Permit process they will be going before the Select Board to have their regulatory agreement modified accordingly. Chair Iverson opened the floor to the public. There were no further questions from the Board or the public.

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

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

John Trudel *Aye*

Chair Dave Iverson *Aye*

Alternate Mr. Borchert activated.

Mr. Trudel confirmed that there will be two separate votes and two separate motions for approval.

Motion/Vote: Mr. Trudel made a motion to approve the Special Permit, including the findings and other notifications that were delivered to Staff. It was clarified that the motion also included the inclusion of short-term rentals and the turnaround. The motion was duly seconded by Mr. Trudel and the motion was carried unanimously.

Sandpiper Place I (South) Workforce Homeownership Development, 4 Bluet Court

Motion/Vote: Mr. Trudel made a motion to approve the application with the findings and condition outlined in the staff report. The motion was duly seconded by Mr. Rector and the motion was carried unanimously.

Vote taken by Roll Call:

John Trudel *Aye*

Barry Rector *Aye*

Nat Lowell *Aye*

Carl Borchert *Aye*

Chair Dave Iverson *Aye*

Sandpiper Place II (North) Workforce Homeownership Development, 26 Honeysuckle Drive

Motion/Vote: Mr. Trudel made a motion to approve the application with the findings and condition outlined in the staff report. The motion was duly seconded by Mr. Rector and the motion was carried unanimously.

Vote taken by Roll Call:

John Trudel *Aye*

Barry Rector *Aye*

Nat Lowell *Aye*

Carl Borchert *Aye*

Chair Dave Iverson *Aye*

• **40 OSR, LLC, 2A & 2B Forrest Avenue**, *action deadline 08-31-2023*

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Art Gasbarro, Surveyor, Attorney Arthur Reade and Architect Matt MacEachern

Discussion: Attorney Reade stated that this application was submitted awhile back and has changed from the original submission and what they are proposing now is a 51-seat restaurant and six two-bedroom residential units on two lots. Attorney Reade stated that they are requesting a waiver of three parking spaces. Attorney Reade acknowledged that there has been discussion with the applicant in the next application 40 Old South Road LLC which is adjacent to their lots. Attorney Reade stated that there has been a desire for coordination of access between the two parties. A plan has been worked out however it is not included in the packet because it was agreed upon after the deadline. The plan includes a shared driveway and a two-way entrance from Forest Avenue for vehicles accessing both lots. There was also mention of a one-way serving both properties at the northerly end of 2B Forrest Avenue. There would be a free passage over the walkways and parking area between the two ownerships. Attorney Reade mentions that they don't anticipate any issues with vehicles crossing the property line and that they will address it as an access easement. There will be pedestrian access from Old South Road. The parking spaces for restaurant employees and residents of the apartments will be located under the building with a proposed ramp for vehicle access. This parking area will not be available for public use. Attorney Reade said that the shared access plan will be included as a condition in the final decision. Mr. Gasbarro stated that he has been diligently working on the site plan and its revisions since receiving Mr. Pesce's comments. He believes he can address all of his concerns. He said he filed plans, including joint access with the Fire Department and received feedback. Mr. Gasbarro stated that they reduce the layout by one parking spot to accommodate required setbacks for a subsurface propane tank. With this change it created more open space and a buffer near the entrance of the facility. Mr. Gasbarro stated that they are aware that they need a Certificate of Water Quality and will make sure to include water quality treatment. There was mentioned that there will be a ramp planned for the subsurface to allow employees and occupants of the building to drive under the structure. The ramp is for internal use and not open to the public. The dumpster area, bike racks, and loading zone were also discussed with plans to share the loading zone between the two buildings. The dumpster area would be located between the building and the loading areas. Mr. Gasbarro mentions an architectural plan that he filed with the application. The plan was to clarify the ramp, building footprint, and open sections of the project. The plan included a seating layout that has been revised. The number of seats is limited to 51 based on the number of parking spaces provided. Mr. Trudel expressed curiosity about the underground parking aspect, specifically regarding the access ramp and potential concerns related to water or other issues. He also raised questions about whether the cost and feasibility of the underground parking space has been thoroughly researched and whether it adds any significant value beyond a regular parking space. Mr. Borchert asked about the elevator in the basement and expressed concerns about water drainage down the ramp towards the basement. Also Mr. Borchert expressed concern about the proposed operating hours in a predominantly residential area. He suggests adjusting the hours to 8am to 9pm. He raised concern about water quality and protection of the Wellhead District. Mr. Borchert inquired about the adequacy of measures such as storm sceptors, drainage pits, or catch basins to satisfy the water quality certification requirements. Mr. Gasbarro stated that there are plans for drainage at the bottom of the ramp, either through gravity or a pump chamber connected to an infiltration system. Mr. Rector mentions the need for a site plan for the garage and a landscape plan. He asked about the utilities in the underground garage and whether they would be located underground or above ground for serviceability. Mr. Gasbarro stated that the AC condensers and compressors would be at ground level, while utilities such as the fire suppression system pump equipment and HVAC ductwork may be located inside the parking garage. Mr. Gasbarro stated that the garage is primarily intended for the residents and staff rather than the general public. Mr. Rector expressed concern about public access to the garage and suggests implementing a key card system or another method to restrict usage to authorized individuals. The following points were raised: the presence

of office space and a restaurant was mentioned, and it was suggested that the restaurant would help with parking; the hours of use for the office space and restaurant were noted to not directly align which was seen helpful; concerns were expressed about the hours of operation particularly regarding the first floor's open space. Chair Iverson opened the floor to the public. Sandra London expressed concern about the operating hours of the building, which are from 6am to 10pm. She suggested that shorter operating hours would be preferable. She also mentions the issue of the sewer system, pointing out that it is a private road and questioned whether it had been addressed. There would be at least 14 parking spaces in the basement meeting the requirements for the apartments and staff. The hours of operation were to accommodate the employee schedules. Mr. Borchert raised concerns about the presence of a bar. He questioned whether the bar would remain and inquired about its operating hours. Mr. Borchert stated that the bars tend to have longer operating hours compared to restaurants. The bar would not operate as a separate entity and would be subject to the approved hours of operation for the overall facility which currently ends at 10pm. Mrs. Snell raised the issue of a recent change to the lighting bylaw that was approved by the Town Meeting but not yet approved by the Attorney General. Mrs. Snell asked if the applicant would be willing to design the lighting to comply with the regulations once they come into effect on January 1st, 2024. Mr. Gasbarro confirmed that the outdoor lighting would comply with Chapter 102. There was concern raised about a label on the plan indicating an "event space" which the applicant responded stating that it is no longer part of the program. It was assured that the revised plans would reflect this change. Deborah Holdgate expressed her concern about on-street parking. She mentioned that Essex has faced problems with parking enforcement due to it being a private road and that they might face the same challenges. There was a brief discussion of the landscape plan. There was mention that the applicant have engaged Elizabeth O'Rourke for the design of landscape plan and will provide a plan specifying the details.

Motion/Voted: Mr. Trudel moved to continue to the July 10th meeting. The motion was duly seconded by Mr. Rector and the motion was carried unanimously.

Vote taken by Roll Call:

John Trudel *Aye*

Barry Rector *Aye*

Nat Lowell *Aye*

Chair Dave Iverson *Aye*

• **40 Old South Road, LLC, 40 Old South Road, *action deadline 06-11-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: Carl Borchert

Representing: Art Gasbarro, Surveyor, Attorney Arthur Reade and Architect Matt MacEachern

Discussion: Mr. Gasbarro discussed the shared access plan. He mentioned that Attorney Brescher could not attend the meeting. Mr. Gasbarro stated that everything mentioned by Attorney Reade regarding shard driveways, sidewalks, and the connection to Old South Road had been incorporated into the plan. There was no proposal for exterior seating as shown in the previous plan. He reiterated that the apartments in the development will be restricted to employees only. Mr. Borchert raised concern about the hours of operation, specifically 6am to 10pm, and its impact on employees' ability to access the premises. Mr. Borchert suggested opening time to the public should be 8am and the closing time should be 9pm, allowing employees an extra hour for cleanup and preparation. He also questioned how the enforcement of no employee cars would be carried out. Mr. Borchert mentioned that there are four mature trees and two damaged pine trees on the Forrest Avenue side of the lot expressing concern that the trees might be removed based on the plan. He suggested exploring options to save or reconfigure the parking lot to preserve the trees. There was a brief discussion revolving around the compliance with dark sky regulations, particularly in relation to another project nearby. The applicant expressed that they will not remove the trees and that the intention is to preserve them. The applicant provided an operation and maintenance plan that included sweeping, cleaning, and inspections of the catch basin. It was mentioned

that this was a Special Permit and if the activity of the establishment becomes disruptive to the neighborhood the public hearing could reopen to modify the hours of operation. Mr. Rector asked if it would be worth considering the placement of a crosswalk closer to the restaurants and establishments rather than on the opposite side. Chair Iverson opened the floor to the public. Sandra London asked about the number of apartments in the latest plan. It was said that the plan had not changed and there were still apartments on the second and third floors. It was clarified that the parking for the apartments is not underground as this is a separate site. The apartments share access however they do not share parking. There was a brief discussion regarding the importance of considering potential changes and planning accordingly. There was a suggestion to add a restriction on short term rentals in the decision considering the potential scale or change of ownership in the future stating in the condition that the apartments should only be occupied by employees of the commercial space below and their families. There was a motion to continue the meeting on July 10th, however Mr. Gasbarro expressed that they thought that everything regarding the topic at hand was already in order. A \$5000 contribution had been agreed towards the bike path or improvements to Old South Road. It was agreed that the suggestion to conduct a review after one year was a great standard practice. The Board confirmed their agreement on the hours of operation, the inclusion of a no STR condition, lighting compliance, and the meeting with the DPW to discuss the possibility of a crosswalk. They also agreed to add a condition requiring Planning Board review for changes in use or ownership. Ms. London raised the point of adding signage to the agreement regarding no parking on the road. Mr. Gasbarro confirmed that signage could be added. Mrs. Trudel noted that it could be included in the conditions.

Motion/Voted: Mr. Trudel made a motion to close the public hearing. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously.

Vote taken by Roll Call:

John Trudel *Aye*

Barry Rector *Aye*

Nat Lowell *Aye*

Carl Borchert *Aye*

Chair Dave Iverson *Aye*

Motion/Voted: Mr. Trudel made a motion approve the application with the three findings and ten conditions as follows: one year review with the Planning Board for the hours of operation amended to condition 4; contribution; lighting dark sky compliance; no STRs, employees only; changing use or ownership requiring Planning Board review condition 8; crosswalk recommendation and meeting with the DPW condition 9 and no parking signs condition 10. The motion was duly seconded by Mr. Rector and the motion was carried unanimously.

Vote taken by Roll Call:

John Trudel *Aye*

Barry Rector *Aye*

Nat Lowell *Aye*

Carl Borchert *Aye*

Chair Dave Iverson *Aye*

- **Nantucket Old South LLC Subdivision, 33 Old South Road, *action deadline 08-23-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Art Gasbarro, Surveyor, Attorney Rick Beaudette and Clifford Shore

Discussion: Attorney Beaudette presented a definitive subdivision plan for a property that was formerly 33 Old South Road. The plan includes a 13-lot subdivision with one roadway lot and 12 buildable lots.

Propose a one way 20-foot-wide layout for the roadway with a 10-foot traveled roadway and 10 feet dedicated parking along the right side of the roadway. In addition to a five-foot easement on the left side for a sidewalk and a grass strip. The roadway is proposed to travel Eastward from Ticcoma towards Old South Road. The proposal also mentioned 40 parking spaces that would be deeded parking spaces in addition to any required on-site parking. There were concerns and questions raised by Mr. Pesce, Attorney Arthur Reade and a neighbor named Nate. These concerns were related to the width of the roadway, which is currently a 10-foot drive away, and the direction of the roadway. The direction of the roadway moving eastward has been developed over a couple of years in collaboration with staff and is considered important to maintain. The reason behind this decision is to isolate the residential component of the property from the commercial area. The intention is to prevent the residential neighborhood from being overwhelmed by commercial traffic. Switching the direction of the roadway is believed to lead to the undesired influx of commercial traffic into the residential area. The applicant has considered changing the proposed 20-foot layout to 22 feet. This change will allow for a 12-foot travel lane instead of the current 10-foot lane. The proposed one-way traffic flow and parallel parking would help avoid situations seen on other roads in the area where parking evolved without proper road accommodation. The one-way traffic flow would facilitate the parking arrangement. Mr. Lowell questioned the potential for workforce housing in the area and whether discussions had taken place with the applicant or the Housing Trust. Mrs. Snell stated that she had not personally had such discussions but mentioned that the area is zoned R-5 and further exploration would be needed to determine if it meets requirements and aligns with their interest. Clifford Shore stated that they had plans for more workforce housing when the prices were significantly lower compared to the current market rates. Mr. Shore stated that they have been working on the current project for about five years and had a meeting with Max who unfortunately passed away. There was a brief discussion on improvements to Young's Way particularly from Old South. It was mentioned that the land improvement will provide multiple directions to go allowing people to turn right when coming out. The width of the sidewalk will be three feet. Mr. Gasbarro stated that they are exploring the possibility of widening the sidewalk and turning it into a multi-use path that connects to Ticcoma and Fairgrounds. He believes this would be a significant benefit for the area and the community. Mr. Rector expresses the need for a lotting plan to determine the type and number of dwellings per lot. He also emphasized the importance of ensuring that any commercial zoning is carefully considered if the plan focuses solely on residential development. He also suggested involving Mike Burns to assess the traffic flow patterns in the area and determine the most effective methodology. Mr. Trudel expressed concern about the possibility of smaller residences turning into larger ones with multiple bedrooms leading to parking overflow. Mr. Trudel believes that smaller dwellings with fewer parking spaces could meet the needs of a segment of the population seeking affordable homeownership. Mr. Trudel proposed that downsizing the buildings while increasing the number of lots could be a beneficial approach. The plan includes ancillary retail use at the front of the development along the street, transitioning immediately to residential area. Ancillary services such as a gym and shared office space are also considered for the residential section, aiming for low commercial intensity. Mr. Rector suggests that as the project progresses, it would be beneficial for the Planning Board to know the specific types of commercial uses and potential operating hours. Chair Iverson opened the floor to the public. Attorney Arthur Reade expressing his appreciation for the project and confidence in Cliff's abilities however he raises concerns as the owner of the property at 6 Young's Way. He mentions the difficulties he faces while trying to make a left turn onto Old South Road due to heavy traffic, especially during peak periods and in the summer. Attorney Reade suggested that traffic should flow from Old South Road towards Young's Way is less heavily traveled. He also mentions the need to consider the width of Young's Way at its entrance as traffic exiting Young's Way tends to occupy a significant portion of the road's width making it difficult for vehicles turning into Young's Way to pass. Attorney Reade suggests including stop signs or stop lines and involving traffic experts like Mike Burns to assess the traffic situation at the intersection. Billy Cassidy expressed support for Cliff Shore and his positive impact on the community. Harvey Young also spoke in favor of widening the road. Mr. Harvey questioned the continuation of Young's Way to Ticcoma wondering if it would maintain the same name or receive a different one. There were questions if the end of Young's Way will be one way or two ways. It is currently a two way but will become one way as it enters the new development. There was discussion for contribution towards the project sounds reasonable.

Motion/Voted: Mr. Lowell moved to continue to the July 10th meeting. The motion was duly seconded by Mr. Rector and the motion was carried unanimously.

Vote taken by Roll Call:

Nat Lowell *Aye*

Barry Rector *Aye*

John Trudel *Aye*

Chair Dave Iverson *Aye*

- **Leanne M. Bell, Trustee of the 34 Chuck Hollow Realty Trust, 34 Chuck Hollow Road, *action deadline 09-10-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Attorney Steven Cohen

Discussion: The proposal is the ability to create a tertiary dwelling as a covenant lot. Attorney Cohen stated that they are working with an existing property and need some waivers because it doesn't entirely fit into the specified rules. The applicant wants to sell a 20000 square foot piece of land to a friend but faces an issue due to the existing second dwelling on the lot exceeding the tertiary dwelling rules. Attorney Cohen made the following points: seeking a waiver from the rule to allow the existing secondary dwelling on the lot to not comply with the tertiary dwelling rule; the intention is to cut off a supportable lot and to compensate for the excess that would occur on the market rate lot, the suggestions is to apply the tertiary dwelling rules to the Covenant lot; this would result in a build out on both properties that is equivalent to what would happen if they were able to remove the second dwelling; propose that the properties have the same buildout as if they were able to remove the second dwelling or do new construction. This means having a primary and secondary dwelling on the market rate lot and a smaller affordable dwelling on the new lot; having two separate curb cuts which require a waiver from the Planning Board. The lot has significantly more frontage than is required and they are seeking affirmation from the Board to allow for a reduction in the lot size of the Covenant lot to 20,000 square feet, which falls within the Board's authority.

Motion/Voted: Mr. Rector made a motion to close the public hearing. The motion was duly seconded by Mr. Trudel and the motion was carried unanimously.

Vote taken by Roll Call:

John Trudel *Aye*

Barry Rector *Aye*

Nat Lowell *Aye*

Carl Borchert *Aye*

Chair Dave Iverson *Aye*

Abby De Molina activated.

Motion/Voted: Mr. Trudel made a motion to approve the application with the three findings and five conditions outlined in the staff report. The motion was duly seconded by Mr. Rector and the motion was carried unanimously.

Note: Abby De Molina was activated, however she was having technical issues at the time of voting therefore Stephen Welch was activated in place of Ms. De Molina.

Vote taken by Roll Call:

John Trudel *Aye*

Barry Rector *Aye*

Nat Lowell *Aye*

Stephen Welch *Aye*

Chair Dave Iverson *Aye*

- **41 WMR Trust, 41 West Miacomet Road, *action deadline 07-09-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Attorney Steven Cohen

Discussion: Attorney Cohen stated they submitted a revised plan due to feedback they received from the previous meeting. Attorney Cohen hopes that the Board will consider the changes made in response to the feedback. The proposal is adding a basement and making changes to the administration resulting in an additional 430 square feet of second story space without increasing the ground cover. These changes have been approved by the HDC. The proposal includes reducing the decks by 313 square feet, which is approximately a 20% reduction. This reduction has also been approved by the HDC. Attorney Cohen stated that the property previously had a shed measuring 120 square feet, which has been removed. The proposal is to replace it with a 200 square foot shed in a different location designed to provide more screening for the neighbors and the public towards the road. Attorney Cohen stated that there was a previous proposal for a cabana pavilion and pergola totaling 360 square feet has been eliminated. He said that there's no impervious surface associated with it, and no structure will be built. The new proposal suggests a smaller 14 by 32 pool reducing the ground cover to 448 square feet, which is a 200 square foot reduction equivalent to about a third of the original size. The coping and patio area have also been altered to reflect this reduction. Previously the pool equipment was in a fenced area behind the Cabana Pavilion structure. However, since the structure has been eliminated the proposal suggests moving the pool equipment to an underground section below the shed. This relocation aims to significantly mitigate noise and potential nuisance associated with the equipment. There was a previous application to re-vegetate 960 square feet of currently disturbed area while disturbing 4087 square feet of undisturbed area. There has been a significant change based on the feedback from the Board. The revised proposal now suggests re-vegetating 9471 square feet of the currently disturbed area while only disturbing 950 square feet. The disturbance is intended to alter the shape of the driveway to limit visibility, rather than creating a new buildable area. The proposal suggests adding a bend to the driveway to limit visibility. Attorney Cohen stated that the intent behind the change is to enhance aesthetics and provide screening without creating new buildable areas. The original application included a curved driveway, but it was altered to address concerns raised by the neighbor regarding headlights and potential impacts on their house. The revised proposal includes revegetating 9,500 square feet of disturbance area which is roughly equivalent to half the size of lots on the island. Attorney Cohen stated that this level of revegetation is not common in most MMD applications which typically focus on building within the disturbed area with minimal re-vegetation. Attorney Cohen mentioned that the property currently has a leaching pit but is considered environmentally unfavorable. Attorney Cohen said that the plan is to replace the leaching pit with a modern system and allow the area where the leaching pit is located to revegetate and naturalize resulting in undisturbed land once the system is installed. Attorney Cohen emphasized the proposal aims to be appropriate for the MMD and hopes that the Board recognizes their efforts. Attorney Cohen addressed a neighbor's suggestion that pools are not allowed in the MMD stating that it is untrue. Attorney Cohen clarified that pools are permitted according to the Nantucket Bylaw and are allowed in the MMD zoning district. He provided examples of pools that have been approved and affirmed by the Planning Board including recent installations and modifications. Attorney Cohen taken measures to mitigate noise, visibility, and other nuisance associated with pools in previous MMD permits. Attorney Cohen mentioned that the VR district designed for smaller rural lots has specific requirements for pools including the need for a Special Permit from the Planning Board. The Zoning Administrator had

previously developed a template of conditions for approving pools in rural districts which addresses noise, light and environmental concerns. Attorney Cohen recommended that the Board adopt a similar set of conditions for MMD pools as the staff has already developed them. Mr. Borchert stated that he personally feels that pools are not appropriate in the Moorlands Management District. He states based on the information provided by Attorney Cohen and considering their own lack of in-depth knowledge on the topic he hopes the Planning Board exercises its discretion to reject the proposal for a pool. He also expresses disagreement with the level of disturbance associated with the proposal. Mr. Borchert mentioned that he read the Executive Office of Environmental Affairs regarding the take of endangered species and plants. He personally stated that he is in opposition to a pool, and he is in favor of minimal disturbance of the Moorlands Management District. He states that the new owner of the property should have the right to use it within the rules considering its proximity to the Atlantic Ocean. Mr. Trudel made a point of order suggesting that an alternate should be assigned before further discussion. Mr. Trudel mentioned Ms. De Molina as a potential alternate. Mr. Trudel expressed curiosity to hear from Emily Molden. Mr. Lowell stated that Attorney Cohen had explained the history of the district but left out one aspect which was the number of lots that were originally in the LUG-2. Mr. Lowell inquired about the size of the property under discussion asking Attorney Cohen if it was one of the smaller lots in the square footage. Attorney Cohen responded that it was 2.9 acres confirming that it was not a large lot. Mr. Lowell mentioned the VR district and the Special Permit issued by the ZBA which had certain height restrictions and allowed a specific ground cover. He also mentioned that there were other areas on the island near the ocean where a pool could be built. Mr. Lowell mentions that decks and other structures also require Special Permits, and second dwellings are not allowed. He expressed that the district is overly restrictive making it challenging to come to a clear decision regarding pools and other features. Mr. Lowell questioned if the neighbors could see the pool and liked the idea of removing cabanas. He emphasized the importance of minimizing disturbance to existing landscaped areas during construction and suggested the possibility of imposing conditions on the work. Mr. Lowell said that the need to ensure that any proposed pools meet all the necessary criteria and minimize disturbance. He believes that there is a way to appropriately incorporate a pool into one of these areas if it is done correctly. Attorney Cohen mentioned that Mr. Lowell reminded him that the location of the pool had been changed to be closer to the house, which was intended to mitigate its visibility. Chair Iverson asked if anyone else on the Board had any comments before moving to the public. Chair Iverson stated that pools in the MMD have always been a contentious topic. He mentioned that there is only one other pool on the street and explained that their previous experience with approving a pool as a medical need which was later changed and enlarged left a negative impression. Chair Iverson stated that Attorney Cohen 's point that while pools are not illegal with a Special Permit, he believes it doesn't align with the purpose of the MMD district. He expressed his hesitation to approve the first pool in the neighborhood, that only one house at the end of the road near the ocean has a pool while the rest of the houses on that stretch do not. Chair Iverson emphasized that the Board should carefully consider the implications as approving one pool could lead to more in the future. Mr. Rector agreed with all the points that Chair Iverson raised and mentioned being surprised by the number of pools installed in recent years. He expressed the need to review the rationale behind those previous decisions and pay close attention to this sensitive area. Chair Iverson opened the floor to the public. John Barada, Co-Manager of 39 West Miacomet Road LLC and a direct abutter to the Applicant stated that despite the changes made by the Applicant the inclusion of a pool in the revised plans suggests a disregard for the Board's guidance. Mr. Barada argued that installing a pool contradicts the district's directive to conserve the natural habitat and protect the scenic integrity of the area. He said that approving the installation of the pool would encourage the introduction of non-indigenous trees and shrubs disrupting the low growing bush ecosystem and obstructing the open expanse of the Moors Land. He emphasized that the use and intensity regulation bylaw aim to protect the low growing shrubs and prevent the spread of introduced vegetation in the district. Mr. Barada mentions Bill Klien's efforts in creating the Moor Lands Management District 40 years ago and emphasized that it was intended to protect the coastal region from unreasonable development and preserve its natural state. Mr. Barada stated that although the district's bylaw language did not specifically address pools or water features at the time of establishment the spirit and purpose should not be compromised. He urged the Planning Board to reject the installation of pools in the district and protect its fragile and unique environment. Mr. Barad expressing hope that the Board would consider their concerns seriously and align with Bill Klien's understanding of the area's significance. Emily Molden from Nantucket Land Council sought clarification

on the landscaping plans presented. Attorney Cohen confirmed that the current plan with green representing re-vegetated areas and blue indicating the driveway was the revised proposal. Ms. Molden proceeded to provide comments on various aspects of the proposal. She acknowledged the changes made, including the adjustments to the pool she expressed continued reservations about the appropriateness of installing a pool in the area. Ms. Molden highlighted the importance of preserving the vegetation community and discouraging additional landscaping or hardscaping. Ms. Molden mentioned her regret for not proposing an amendment at the Town Meeting to address this issue. Ms. Molden appreciates the re-vegetation efforts, especially with native species. Ms. Molden expressed concerns about the increased ground cover of the shed inappropriate. She sought clarification on the “limit of NHESP easement habitat of rare species” indicated on the plan and what it is representing. She said she went online, and that the entire property is mapped as priority habitat with natural heritage, but some adjacent properties are not. Ms. Molden expressed concerns about the proposed driveway relocation and the unnecessary disturbance and re-establishment of the area with other species. Ms. Molden reiterated her opposition to the current and previous pool proposals. Attorney Whit Gifford made technical points about pools being allowed in the MMD. He emphasized the need to explicitly exclude them if deemed inappropriate. He also raised a question about an 80 square foot increase to the shed and its compliance with the sideline setback in the MMD. Attorney Cohen stated that the shed’s proposed size is 200 square feet and there was a previous shed on the lot that measured 120 square feet. The purpose of the shed was explained as providing storage space for items like bikes, lawn mowers and gardening tools which would otherwise be stored outside negatively impacting the environment. Attorney Cohen said that denying proper storage space would not benefit the Moors Land Management District. Thomas Barada raised two points. First, he mentioned the importance of protecting scenic views in the Moors Land Management District. He expressed concern that the proposed driveway configuration would place vehicles in front of the house obstructing the view from 39 West Miacomet and potentially affecting the ocean view. He also said that the driveway area is located at the highest point on the property which further impacts the visual aspect. Secondly Mr. Barada brought up the issue of vegetation and suggested imposing a restriction that prohibits bringing in materials from off-site. Mr. Barada proposed that all topsoil should be stockpiled onsite until it is needed. Christine Donelan expressed her appreciation for the changes made but still disagreed with the inclusion of a pool in the Moorland Management District. Ms. Donelan expressed concerns about the noise from pools, especially with children and music, as well as the proximity of the Brewery’s noise which is two miles away. She mentioned a previous permit denial for a storage area under a shed due to it being considered ground cover. Ms. Donelan emphasized that she has a problem with the third-floor dorms in the neighborhood despite acknowledging the building’s overall design. Mr. Trudel stated his support for pools and expressed his reluctance to deny them outright. He acknowledges that the MMD is a highly restrictive area for a reason. He understands the concerns raised by Ms. Molden and Chair Iverson and would have preferred to see the pool removed from the proposal. Mr. Trudel stated that he was open to other aspects of the proposal such as the shed without a basement if it doesn’t affect setback regulations. Mr. Rector expressed the need for additional time due to the number of items on the agenda. Mr. Rector would like more time to research past decisions and understand the details of various aspects, including who, what, when, and most importantly why. Attorney Cohen seemed to understand the current situation and indicated a willingness to make appropriate changes. The issue of a view easement between the neighbors was acknowledged and it was said that the Planning Board has no jurisdiction over private deed restrictions. It was suggested to continue the discussion at the next regular meeting. There was mention of the poor condition of the pool and a suggestion to clean it. Protecting the environment, specifically preventing the introduction of invasive species through soil, was considered a good idea. Mr. Lowell questioned the definition of pool sizes and types. Mr. Trudel mentioned that obtaining a Special Permit was necessary, indicating that it was simply not allowed. He emphasized the need to consider each case individually and stated that if any changes were to be made it would require an article to be presented at a future Town Meeting. Mrs. Snell referred to a specific section 139-30 of the Bylaw regarding Special Permits stating that the granting authority should issue permits for structures and uses that align with the overall purpose and intent of the chapter while adhering to its provisions. Mrs. Snell stated that if the permit was to be denied a clear explanation would be needed demonstrating how it does not harmonize with the chapter. Mrs. Snell suggested to the Board to take a close look at the performance measures outlined in Section 13 of the MMD and consider them carefully before the next

meeting. She said it will determine whether to grant the permit and would require specific findings to be cited.

Motion/Voted: Mr. Rector moved to continue to the July 10th meeting. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

John Trudel *Aye*

Abby De Molina *Aye*

Chair Dave Iverson *Aye*

• **Surfside 13 ACK LLC, 13 Surfside Drive, *action deadline 09-10-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Attorney Steven Cohen

Discussion: The property is in the R-10 district and consists of slightly oversized lots totaling 1,115 square feet. It is situated at the corner of Surfside Drive and Pine Grove Road with approximately 120 linear feet of frontage on one road and 100 linear feet on the other. Currently there is a three-bedroom duplex on the property with three bedrooms in each unit and a total of 1,352 square feet of ground cover. The property has two existing curb cuts which are believed to be pre-existing non-conforming features predating 1998. There is also a shed on the property that is planned to be removed and replaced with a tertiary dwelling. The proposed tertiary dwelling would have 500 square feet of ground cover and up to 900 square feet of gross living area. It is designed to be a two-bedroom structure. Attorney Cohen stated that the Bylaw allows for one bedroom per 1400 square feet of lawn area. He stated that to have 8 bedrooms, 11,200 square feet of lawn area is needed. The lot in question has 11,155 square feet of lawn area which is only 45 square feet short of the requirement. Attorney Cohen argues that this difference is relatively insignificant. He mentions that the bylaw allows the Planning Board to grant a waiver in situations like this which they are requesting. Attorney Cohen mentioned that the requirement for parking spaces might be reduced from seven to five under the new Town Meeting, but his client intends to provide nine parking spaces. The Board has granted waivers in the past when there is sufficient lot area for parking even if it is close to meeting the requirements. Attorney Cohen is requesting a waiver for a two-bedroom tertiary and emphasized the small differences of only 45 square feet and the provision of excess parking. Mr. Borchert raises concern about the practicality of stacked parking. He questions how cars would be able to exit if they are stacked in the designated spots. Mr. Borchert asked if someone can provide information on stack parking and suggests that if a car is parked in spot number five, they may have to back out onto Surfside Drive. Attorney Cohen stated that stack parking is allowed in residential areas but suggests that the Board may consider imposing a condition for an on-site turnaround, excluding parking space number five which they would adjust the design to provide for an on-site turnaround in those spots. Mr. Trudel agrees with Mr. Borchert's suggestion and recommends including it as a condition. Mr. Trudel suggested adding a restriction on short-term rentals to appeal to local year-round residents. He doesn't have objections to the proposals as long as this restriction was in place. Attorney Cohen asked for clarification on whether the restriction applies to the tertiary structure or other structures as well. It was clarified that the tertiary structure already requires a year-round restriction. Attorney Cohen said that his client specializes in year-round and workforce housing so long as the conditions run with the tertiary permit it would be acceptable. Chair Iverson expressed concern about parking and the potential use of more yard space or cars lining the streets. He suggested that the client be sensitive to this issue and consider providing an extra turnaround. Attorney Cohen mentioned that the surveyor and engineer, Dan Mulloy who is attending the meeting could design a solution that addresses these concerns. Chair Iverson asked if any other Board member had anything to add. Mrs. Trudel was

asked if there were any members of the public present and she replied that she didn't see anyone. Mr. Rector requested to activate someone, and Mr. Borchert was chosen to be activated.

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

Vote taken by Roll Call:

Barry Rector *Aye*

John Trudel *Aye*

Nat Lowell *Aye*

Carl Borchert *Aye*

Chair Dave Iverson *Aye*

Motion/Vote: Mr. Rector made a motion to approve the Special Permit, including the findings and other notifications that were delivered to Staff. It was clarified that the motion also included the inclusion of short-term rentals and the turnaround. The motion was duly seconded by Mr. Trudel and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

John Trudel *Aye*

Nat Lowell *Aye*

Carl Borchert *Aye*

Chair Dave Iverson *Aye*

Tertiary Dwellings:

Surfside 13 ACK LLC – 13 Surfside Drive

Motion/Vote: Mr. Rector moved to approve the tertiary dwellings as conditioned and with the findings made by staff. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

John Trudel *Aye*

Chair Dave Iverson *Aye*

- **Reel Keeper, LLC – Pile Lane Subdivision, 10 Surfside Drive, *action deadline 09-09-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Surveyor, Dan Mulloy

Discussion: The applicant sought approval for two lots with the purpose of demonstrating their feasibility for a future real lot subdivision. The intention was to proceed with the real lot subdivision as indicated in the staff report. A draft of the rear lot plan was included in the package giving an idea of its layout. The property was zoned R-10 with a size of just over 22,000 square feet. The current configuration showed a 20-foot right of way road on one side leading to two lots. The future rear lot plan would have a similar layout but without the right of way road providing access to the rear lot. The owner's intention was to keep the existing house and move it to the back of the property, potentially spinning it and placing it in the new location. The owner requested several waivers to demonstrate the feasibility of the subdivision. The Board members agreed that the proposal was straightforward. Mr.

Trudel stated that it's like a previously approved plan on Cato Lane and has no issues with it. Mr. Rector suggested a contribution of \$5000 and he wanted to hear staff's thoughts on the matter. Mr. Lowell mentioned that the owners were spending a significant amount of money to move the house that was built in the wrong spot. He stated that there are issues with Surfside Drive and the misalignment of the telephone pole. He was uncertain if a contribution would fix these issues, however he is open to the ideas of the owners contributing towards small improvements or ongoing projects. Mr. Mulloy stated that they are before the Board for a definitive subdivision approval and that if they can vote in favor, he mentioned that they will be coming back before the Board in a month for a real-life Special Permit and will be having this discussion again. Mrs. Snell suggested that the discussion regarding the contribution would be more appropriate during the Special Permit stage. Chair Iverson opened the floor to the public. No one from the public made any comments.

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

Vote taken by Roll Call:

Barry Rector *Aye*
John Trudel *Aye*
Nat Lowell *Aye*
Chair Dave Iverson *Aye*

Motion/Vote: Mr. Rector moved to approve the application as conditioned and with the findings made by staff. The motion was duly seconded by Mr. Trudel and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Nat Lowell *Aye*
John Trudel *Aye*
Chair Dave Iverson *Aye*

- **The Westmoor Club, 105 W. Chester Street, 109 W. Chester Street & 10 Westmoor Lane, *action deadline 08-31-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: Chair David Iverson

Documentation: File with associated plans, photos and required documentation

Activated: Stephen Welch and Carl Borchert

Representing: Attorney Steven Cohen

Discussion: Chair Iverson stated that Mr. Welch and Mr. Borchert will continue to be in this discussion because he and Mr. Topham did not Mullin in. Attorney Cohen mentioned that they had been engaged in communication with the neighbors and had worked with the State's Department of Environmental Protection (DEP) to address environmental concerns. The purpose of their engagement with DEP was to ensure compliance with regulations that were unrelated to the Planning Board's application but had implications for the location of the structures. Three structures were being proposed with one of them being a new maintenance building measuring 1375 square feet. Attorney Cohen stated that the building was planned for the southern side of the Westmoor Club property where there is currently storage of maintenance equipment externally. The purpose of the new building was to protect the equipment and materials and minimize any disturbance caused by these activities. Attorney Cohen stated that he is aware that one or two of the neighbors expressed for no structures, but he believes that having a structure would be beneficial for organizing and safeguarding the equipment. Attorney Cohen said that the Board had no concerns regarding the first structure, the maintenance building located 150 feet from the road. The second part of the proposal involves a small cottage and a garage/maintenance building on the Northern side adjacent to the existing tennis court. The garage is a single-story structure with half intended for car storage and the other half for lawn mowers and related equipment already in use in the

area. The proposed four-bedroom cottage would be approximately 1537 square feet which was a 30 percent reduction from the initial proposed 2250 square foot building. Attorney Cohen said that the size of the cottage is modest. The height of the structure had been reduced from 24 feet to 22-2, which Attorney Cohen also considered modest. Attorney Cohen stated that the cottage had been moved approximately nine feet to the South and West away from the neighboring properties partly to accommodate the wetland buffer zone in the area. Attorney Cohen stated that there was a period of drought on the island affecting all applications and data used by the clients. Attorney Cohen stated that the formulas used were approved by the Conservation Commission and DEP. With the recent rainfall it was possible to re-evaluate the data and adjust the boundary line based on better data. Also, he mentioned that stormwater systems have been proposed, meeting commercial standards for the residential structure. HVAC system is designed to minimize noise and is located and screened in a way that reduces noise significantly. Attorney Cohen stated that there is a small increase in size due to a bump out to the garage structure which allows both commercial and residential uses to be accommodated in a single-story structure. Attorney Cohen stated that there was a suggestion that the expansion of the Westmoor Club is excessive. Attorney Cohen stated that the Westmoor Club has had several permits and modifications since its establishment in 2004 and listed the changes. Mr. Borchert stated that he conducted a site visit to the North of Pilgrim Road and the Westmoor Club. Mr. Borchert observed the houses on Pilgrim Road and Cliff Road which backed up to a vernal pool that dries out in the summer. He stated that there is sufficient space for a cottage on the site and there is adequate access for it to be used as employee housing or at the club's discretion. He said that there are no issues with MCD modifications, and the public hearing can be re-opened if necessary. Mr. Borchert suggests putting a one-year review as a condition. Mr. Borchert stated that the Planning Board has the authority to re-open the MCD public hearing at any time if complaints arise. Mr. Welch agrees with Mr. Borchert's earlier statement and is familiar with the area. Mr. Welch stated that given the history of the neighbors' concerns with noise and the absence of noise bylaw addressing short-term rentals he believes that prohibiting short-term rentals in this case is important. Mr. Welch supports the concept of additional housing for employees or business owners and is interested in hearing the neighbors' perspectives. Mr. Lowell agreed with Mr. Borchert and Mr. Welch's points and made a comment that the ground cover is under five percent. Mr. Lowell acknowledges that the property is for commercial use in a special residential zoning it is important to consider the property's history and its current state. Mr. Lowell stated that when considering the neighborhood as a whole he believes that the small changes being discussed are insignificant compared to the overall development in the area. Mr. Trudel agreed with the points made by his fellow board members. Mr. Trudel stated that the employee housing is intended for owners and supervisors not for young kids partying. Mr. Trudel stated that the applicant has made concessions such as lowering the height of the cottage and excluding a pool and events. He felt that the additional structures proposed for maintenance and storage will not significantly impact the club's operations. He believes that these changes will help the club manage its operations more efficiently without significantly altering its functioning. Chair Iverson opened the floor to the public with a reminder to keep comments within two minutes and avoid repetition. Attorney Sarah Alger stated that she and Dan Bailey represent several neighbors who are concerned about the project. Attorney Alger list the names of the neighbors and their respective addresses (William and Ann Farrell – 94 Cliff Road; Lori and Robert Champion – 4 Old Westmoor Farm Road; Jean Francois Formela – 8 Old Westmoor Farm Road; Peter Halle and Carolyn Lamm – 24 Pilgrim Road; and Michael and Jane Gaito – 92 Cliff Road. Attorney Alger stated that despite what has been said before they believe that this project has reached a tipping point. She argued that the project which is for a profit commercial development is already negatively impacting the residential neighborhood in terms of noise, traffic, and quality of life. Attorney Alger stated that the applicant only provided two plans without an overall site plan which she believes should have been included. Attorney Alger stated that the site plan review may be required under the Bylaw and questions whether the applicant has gone through that process or requested a waiver. Attorney Alger stated that there are three areas of concern. Firstly, she expressed concerns about the historical impact and the encroachment of commercial development into the residential neighborhood along with its associated impacts. Secondly, she mentions the environmental issues and suggests that not all interests with the relevant department have been resolved, potentially requiring further changes to the plan. Thirdly Attorney Alger brought up technical considerations such as the enforcement of restrictions on the proposed employee housing and the lack of information on open area compliance and driveway

specifications and its associated impacts. Attorney Alger highlighted the initial findings made during the project's approval including the requirements to maintain a significant buffer which they argue has been largely depleted. She also mentions the discrepancy in traffic impact, stating that the current level of traffic is much higher than what was initially projected. Attorney Alger said that the impact of Westmoor exceeds that of a typical residential development. Attorney Alger stated that the area is used for outdoor events, including amplified music, summer camps, and other permitted activities. She expressed concerns about the project's impact on the residential neighborhood stating that it is negatively impacting the quality of life. Attorney Dan Bailey agrees with the concerns raised by Attorney Alger and does not have much additional input. Chair Iverson opened the floor to the public with a reminder to keep comments within two minutes and avoid repetition. Christian Miles at 8 Crooked Lane expressed appreciation for Attorney Alger's presentation. He states that the intensity of people, noise and activity has increased over the years making the area inconsistent with its residential nature. He agrees that conducting a comprehensive impact study would be beneficial. Peter Halle expressed his appreciation for the opportunity to discuss the matter and the time spent considering it. He states that he resides at 24 Pilgrim Road and has witnessed the growth of the club since 2007-2008. He stated that one significant change has been the increase in membership, which originally had a limit of 480 but has not been raised to 580 resulting in a significant increase in the intensity of club usage. Mr. Halle questioned the reasons behind the expansion of facilities. Mr. Halle reiterated that the club is private not public, and its usage is continually intensifying. Mr. Halle emphasized the need for a well-defined buffer zone, which is currently unclear. Mr. Halle stated that the open porch on the south side of the proposed cottage would increase noise and bring it 300 feet closer to the homes of the neighboring residents. He said that they are not against the cottage itself but believe it should be located closer to the club rather than near their homes. Virginia Chase at 117 West Chester Street expressed her opposition to the construction of a cottage. She mentioned that she and many others on West Chester Street have been living there since before the club was established in 1974. She stated that she sees the cottage as an expansion of Westmoor which she believes doesn't need any further expansion. She argues that the cottage is unnecessary for the club's operations and views it merely as a recreational space. Ms. Chase states that the proposed cottage expansion of Westmoor doesn't seem to have such benefits. She then brought up another issue related to the pickleball courts. She stated that the pickleball courts were situated next to Westchester Street causing constant and disturbing noise throughout the neighborhood. Attempts to mitigate the noise with buffers and equipment have been ineffective. Ms. Chase proposed moving the pickleball courts to the middle of the development near the tennis courts as the only solution to keep the noise away from the neighborhood and allow residents to enjoy their summers in peace. Emily Molden from the Nantucket Land Council expressed appreciation for Westmoor as a non-profit entity but raised a few concerns. She mentioned that her concerns were in response to some of the presentations by Attorney Alger and Attorney Bailey. Ms. Molden stated that they have been concerned about the proposed location of the cottage in close proximity to the wetland which is a sensitive rental pool habitat. She acknowledged that there have been adjustments made based on these concerns but note that the finalization of these adjustments is still pending. Ms. Molden found it interesting that there was a previous finding about maintaining a buffer around the development and the club. Ms. Molden suggested that it is important to review the findings and conditions from all prior amendments to thoroughly consider these concerns. Ms. Molden recommended that issuing a permit should be delayed until the appeal process is finalized even though there might not be a requirement to do so. She expressed concern that finalizing the permit while the appeal is pending would be premature. Jane Gaito, a neighbor, and abutter from 92 Cliff Road stated that she acknowledged the need for employee housing but pointed out that the current housing provided by the Westmoor is for owners rather than employees. She expressed that a large-scale operation doesn't fit well within a residential neighborhood. Ms. Gaito credited the Westmoor Club for complying with this requirement in the past but criticized their proposal to remove the buffer and build on it. Abutters along with neighbors from Cliff Road and Pilgrim Road expressed their opposition to the proposal. Ms. Gaito expressed her frustration with Attorney Cohen and Mr. Goldsmith for attempting to minimize her status as an abutter due to the distance between her house and their property. She emphasized that her house along with the neighboring properties surrounds the wetlands and vernal pools and they have embraced the restrictions associated with these natural features. Ms. Gaito urged the Board to ensure that the Westmoor Club respects the buffer required by their permit and suggest that if they need to build a house it would be more appropriate to do so in the denser area within their grounds

rather than encroaching on the buffer and fragile wetlands. Jean-Francois (8 Old Westmoor Farm Road) expressed his concerns about the Westmoor Club's expansion and the disruptive nature of its current operations. He emphasized the significant number of members and parking spaces. He questioned the need for additional bedrooms in the buffer zone and raised doubts about whether they were truly for employees or for entertaining coworkers. He expressed the negative impact the proposed construction would have, bringing noise 300 feet closer to the residents and potentially disrupting the peaceful atmosphere. Attorney Dan Bailey brought up a technical issue related to the MCD bylaw. He mentioned that the bylaw requires 20% open space, which was previously 30% when the permit was originally permitted. Attorney Bailey referred to Section 139-11 of the Bylaw which states that open space area does not include walkways, patios, or structures. He explained that the definition of a structure includes buildings, docks, decks, and game courts among other things. Attorney Bailey suggested that before any actions or approvals are taken the Board should ensure that Westmoor complies with the zoning requirement particularly in relation to the transfer of 0.4 acres regarding open space. He emphasized that this is a critical component of zoning compliance and stated that the Board does not have the authority to approve the project until compliance is demonstrated. Mr. Rector stated that the site plan ensures that it meets all specifications prohibiting short-term rentals and special events and clarifying that the property should be used solely as a single dwelling unit for residential purposes. Mr. Rector suggested conducting a review of the MCD to ensure compliance with all specifications. Attorney Bailey expressed that the review would be a significant undertaking and requested a two-month extension to allow sufficient time for the process. Mrs. Snell supported the suggestion stating that the zoning compliance coordinator could handle the review with that timeframe. Mr. Welch agreed with the importance of the review and expressed his appreciation for understanding its implications. He mentioned that the review could potentially open a can of worms for the Applicant. He suggested the possibility of "horse trading" where certain concerns could be addressed through negotiations. He specifically mentioned issues related to amplified music, sound blocking on pickleball courts, fencing, porch, and the prohibition of short-term rentals. Mr. Welch stated that the importance of considering the residential neighbor's concerns and ensuring a fair and balanced approach. Attorney Cohen shared his perspective on the concerns raised by the neighbors. He stated that while the neighbors' points were valid and important, they were mostly irrelevant to the matter at hand. Attorney Cohen stated that there are two main issues to consider whether the proposed four-bedroom cottage meets the requirements for approval under the Special Permit guidelines and the specific restrictions placed on the property. Attorney Cohen argued that the proposed single-family dwelling with specific restrictions such as no dorm use, no member use, no rent and no short-term rental use is perfectly approval under the Bylaw and Special Permit regulations. He emphasized that the proposed property would have no significant impact and would be well within the allowed distance from the neighboring houses. Attorney Cohen stated that the benefit of having the owner of the club or senior management on site is a means of mitigating any potential nuisance. Attorney Cohen stated that the only pending issue is obtaining emergency vehicle access approval from the Fire Department which may involve adjusting the location of the access. Attorney Cohen proposed constructing an emergency vehicle access with a gate that would only be used by the Fire Department or Police Department not as a regular driveway. Attorney Cohen stated that he does not mind continuing the discussion for one more month if necessary but noted that the current discussion seems to be addressing a different related to compliance and approval uses. Mr. Borchert stating that the opposition from neighbors should be considered in the context of other developments and businesses in the area. Mr. Borchert expressed the changes and challenges he has experienced living in the neighborhood for over 50 years including increased traffic and congestion. He acknowledged the neighbors' desire for peace and quiet but also stressed the need to consider the overall changes in the neighborhood. Mr. Borchert stated that the cottage in question is not encroaching on the neighbors' property and is within the buffer zone. He mentions that the cottage is only about 20 feet away from the tennis court fence. Mr. Borchert argues that the opposition's concern about the proximity of the cottage is not significant considering its size and the fact that the owners of the club live in it. Mr. Borchert stated that he has looked into the matter and suggests that mitigation techniques can be implemented to address the noise issue with the pickleball courts. Mr. Trudel addresses Mr. Borchert's comment about a site review acknowledging that they have been to the site multiple times in the past and are familiar with the area. Mr. Trudel suggests that it would be helpful to discuss a possible continuance perhaps not for two months by maybe a month and propose coordinating a site review similar to what was done with

Richmond. He said a coordinated site visit with representative from Westmoor to provide guidance on the location of the structures. Attorney Cohen requested a continuance to the next regular meeting. Attorney Cohen mentioned that a photo was received in the afternoon, and it shows a cottage and its location, which is approximately 275 to 350 feet away from the nearest neighbor. Mr. Rector made a motion to continue, however he mentioned that he would need to check with staff to ensure that there is an appropriate time available for the continuation. He stated that the Director of Planning, Andrew Vorce, is leaving and there are two new people taking over new positions, so he wants to be respectful and give them enough time to settle in. Mr. Rector asked staff for guidance on the appropriate time frame. Chair Iverson wanted to understand if the motion included a review. Mr. Rector clarified that they were indeed suggesting a review and emphasized the importance of conducting one. Mrs. Snell stated that she didn't have access to vacation schedules and manpower details and agreed that the discussion could always be continued if needed.

Motion/Vote: Mr. Rector moved to continue this discussion to the next meeting. Mr. Rector emphasized that, if necessary, it would be the staff decision to defer the discussion further and he would unequivocally support that decision. Chair Iverson clarified that the motion was for an MCD review. The motion was duly seconded by Mr. Trudel and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

Carl Borchert *Nay*

John Trudel *Aye*

Stephen Welch *Aye*

- **21 Pilgrim Road Trust, Steven Cohen, Trustee and Sophie's Way Homeowners Association Trust, Steven Cohen, Trustee – Sophie's Way Subdivision, 4 Sophie's Way & 21 Pilgrim Road, action deadline 09-09-2023**

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Surveyor, Dan Mulloy and Attorney Steven Cohen

Discussion: Mr. Mulloy introduced the proposed amendment to an existing subdivision called Sophie's Way. The amendment proposal is to reduce the length of the right of way by approximately 13 feet and adjust the interior lot line between two lots. Mr. Mulloy explained that the right side of the lot had been restricted in terms of what could be built and whereas a result of negotiations with neighboring property owners. The negotiations led to the proposed changes being presented to the Board. The purpose of these adjustments was to accommodate the restrictions and ensure the satisfaction of the neighboring property owners. Mr. Mulloy stated that the goal was not to increase density but rather to reduce it by limiting construction options. Mr. Mulloy mentioned a condition regarding a 15-foot setback on the corner lot at Pilgrim Road in Sophie's Way. He requested that the Board consider modifying the language of the condition to clarify the intended location of the setback. Mr. Lowell questioned if this project was relatively recent within the past couple of years and mentioned not being involved in the original approval process. Mr. Mulloy stated that he received some recent comments and emails from the neighboring property owners. One of the abutters mentioned that they believed the 15-foot setback was intended to be towards Pilgrim Road to maintain consistency with other lots and houses in the area. Mr. Borchert stated that he is concerned with the swales, particularly on one side which appeared to be one foot deep instead of the expected two feet. Also Mr. Borchert expressed the need to ensure that any drainage structure at the base of the road would not cause puddling on the road surface. Mr. Mulloy stated that he didn't have the original subdivision file in front of him but believed that the road had been designed, approved, and constructed according to the approved plans. He stated that the road construction had been signed off as completed. Mr. Mulloy stated that he will need to review the swales

and determine if there was supposed to be one or two. He expressed willingness to accommodate if maintenance or alignment was required during construction. Chair Iverson opened the floor to the public. Peter Halle mentioned that he had sent a specific page, possibly the 24th page, as part of the packet. He asked Mrs. Trudel to display that page. Mr. Halle explained that the point of the page was to highlight wording from the original application regarding the requirement for two swales, one on either side of the road. Mr. Halle agreed with the staff's recommendation and requested that the project comply to the swale requirements and any other engineering requirements necessary to address the ongoing problem. He suggested that these requirements should be included to allow the project to proceed.

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

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

John Trudel *Aye*

Chair David Iverson *Aye*

Motion/Vote: Mr. Lowell moved to approve the applicant's recommendation with the following findings and conditions outlined in the staff report and rewording the original decision regarding the swale. The motion was duly seconded by Mr. Rector and the motion was carried unanimously.

Vote taken by Roll Call:

Nat Lowell *Aye*

Barry Rector *Aye*

John Trudel *Aye*

Chair David Iverson *Aye*

• **ACK Laundro LLC, 4 Hanabea Lane, *action deadline 09-10-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: Stephen Welch

Representing: Surveyor, Dan Mulloy and Linda Williams, Agent

Discussion: Ms. Williams stated that this is an existing commercial structure. The building does not have a dwelling unit but there is a mezzanine on the second floor that will be used as an office. The first floor of the building will be used for high end vehicle customization. Mark Willett from the Water Company has reviewed and approved the project. Ms. Williams stated that there are nine parking spaces available at the back of the building. Mr. Rector expressed concern about the nature of the upgrades and wanted to ensure that they are limited to exterior modifications and do not involve more complex mechanical work like transmission or suspension upgrades. Ms. Williams stated that the building is the least used on the street. Mr. Borchert stated that he did not see in the packet a cleaning and maintenance plan for the storm water system and if there is one. It was confirmed that a maintenance plan exists. Mr. Trudel questioned if they were waiting for a response or clarification on the phrase "conditions to be determined". Mr. Trudel recommends if necessary for staff to add a condition to prohibit commercial servicing of vehicles without a Special Permit. Chair Iverson also suggested adding regarding maintenance of the engine and restrictions on bodywork involving paint and Bondo. Chair Iverson asked if the building is legally designed to accommodate a repair shop. Mr. Mulloy stated that the building has a floor drain that is separately plumbed to a specific gas Mile Water system outside the building which connects to the sewer system. There is an exterior drainage system for stormwater runoff from the roof and parking driveway area. The interior floor drains are required by code, regardless of the type of use. Ms. Williams stated that there is no dwelling unit in the building, so it doesn't need to be sprinkled. Mrs. Trudel responded to Mr. Trudel's question. She explained that the application for the building's use was

presented to the Water Company specifically in the Public Wellhead Recharge District. The use was approved based on the information provided during the presentation. Mrs. Trudel emphasized the need for the decision or language in the decision to reflect the accurate description of the building's use. Mrs. Trudel stated that these conditions include prohibiting heavy commercial servicing of vehicles, the use and storage of hazardous materials would be allowed on the site without the need for further review from the Board and potentially others for any such activities on the site. Chair Iverson suggest adding the condition of allowing paint and bodywork. Ms. Williams expressed caution about the term "bodywork" because it may involve altering the doors or applying laminate. Ms. Williams stated that they are fine with no major body repair and no painting of vehicles. Mrs. Trudel suggested making the maintenance plan available to have in file. Ms. Williams stated that she would be fine with any of these conditions if they were deemed acceptable. Mr. Welch proposed no exchange of vehicle fluids on the property that is being serviced. Chair Iverson opened the floor to the public. Emily Molden from Nantucket Land Council stated that she supports the discussion of additional conditions and appreciates the conversation.

Mr. Welch activated.

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

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

Stephen Welch *Aye*

John Trudel *Aye*

Chair David Iverson *Aye*

Motion/Vote: Mr. Rector moved to approve the applicant's recommendation with the following findings and conditions outlined in the staff report and the additional condition that was discussed at tonight's meeting. The motion was duly seconded by Mr. Welch and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

Stephen Welch *Aye*

Nat Lowell *Aye*

John Trudel *Aye*

Chair David Iverson *Aye*

• **Abel Way Subdivision, 156 & 158 Cliff Road, *action deadline 08-24-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Surveyor, Dan Mulloy

Discussion: Mr. Mulloy stated that this is a proposal for a four-lot subdivision. The purpose of this plan is to demonstrate what can be done and to pave the way for a rear lot subdivision plan which currently consists of three lots. The intent is similar to the Surfside Drive project discussed earlier with the condition that if any development took place more detailed plans would need to be submitted for the Board approval. Chair Iverson opened the floor to the public. Emily Molden from Nantucket Land Council asked if the waivers for the roadway layout, specifically the 40-foot requirement, could impact the number of lots that can be created. Ms. Molden acknowledges that the plan will eventually transition into a rear lot subdivision. She also questioned the prohibition or restrictions in tertiary dwellings mentioned in the recommendation. Ms. Molden questioned if the Board has considered the restrictions

on year-round occupancy for tertiary dwellings. Ms. Molden suggests restriction on secondary dwellings instead, if possible, while allowing tertiary dwellings due to the requirements for ownership. There is uncertainty about the feasibility of implementing such a restriction. Chair Iverson stated that the need for further discussion on the matter at another time.

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

Vote taken by Roll Call:

John Trudel *Aye*

Barry Rector *Aye*

Nat Lowell *Aye*

Chair David Iverson *Aye*

Motion/Vote: Mr. Trudel moved to approve the applicant's recommendation with the following findings and conditions outlined in the staff report. The motion was duly seconded by Mr. Rector and the motion was carried unanimously.

Vote taken by Roll Call:

John Trudel *Aye*

Barry Rector *Aye*

Nat Lowell *Aye*

Chair David Iverson *Aye*

• **Davkim Smiley LLC, 10 & 12 Davkim Lane, *action deadline 09-10-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: Leslie Snell

Documentation: File with associated plans, photos and required documentation

Activated: Carl Borchert

Representing: Attorney Arthur Reade and Don Bracken

Discussion: Mrs. Snell stated that she wants to go on record that she is recusing herself from the discussion due to being on the abutters list. She does want to make some comments later as a property owner during the public hearing. The proposal is to construct a self-storage facility. The facility will have a total area of approximately 101,000 square feet and will consist of five levels, two below ground and three above ground. There will be a duplex at the rear of the property with two three-bedroom units. The applicant is requesting a parking waiver. Attorney Reade stated that the typical calculation of one parking space per 900 square feet of commercial or industrial space is not applicable to a self-storage facility. The proposed plan includes 13 parking spaces on the side of the lot and an additional five spaces near the duplex at the rear of the property. One of the duplex units will be dedicated to the staff of the self-storage facility while the other unit will be available for rent to an outsider. Attorney Reade stated that a proposal is made to provide a covered storage area for 10 vehicles on the side of the property which will be counted as parking spaces. The Bay storage area will be open with no doors like an open porch. In response to a question raised by Ed Pesce it was expressed that this arrangement does not constitute ground cover. The easterly part of the lot is subject to an exclusive use easement of the adjacent property, so no uses are proposed for that area. The proposed schedule is from 9:00AM to 5:30PM on Monday through Friday, 8:00AM to 4:00PM on Saturday, and 11:00AM to 3:00PM on Sunday. Access to the storage by the staff would be available from 6:00AM to 10:00PM every day of the week. There was question if there will be additional screening at the rear of the lot. Attorney Reade stated that screening is being proposed in that area and the presence of a duplex residential structure between the storage building and the residential area to the rear helps reduce the impact of the storage building on the neighboring residences to the south. Attorney Reade stated that most of the other questions and issues have been addressed satisfactorily. Mr. Bracken stated that the property consists of two separate lots that will be combined into one with a total lot area of 1.2 acres. Mr. Bracken stated that the lot is located in a

zone with a wellhead protection area designation. The duplex has six proposed bedrooms with separate parking requiring five spaces. The project provides 23.7 units of open space exceeding the required 20 units of vegetated areas. All parking areas will be paved and curved utilizing a combination of Cape Cod berm and vertical concrete curbs. The utilities on the site include Town sewer and water, as well as an independent private drainage system designed in compliance with stormwater regulations. A split rail fence along the front with a viburnum hedge. Along the west there is a combination of a six-foot board fence with columns and oak trees with climbing ivy. Along the south towards the residential area there is a six-foot board fence and a viburnum hedge. Along the east there is another six-foot board fence with climbing hydrangea. The lighting on the site is compliant with the updated lighting bylaw passed at the Town Meeting. A significant amount of planting and fencing have been recently added along the northern border adjacent to the residential neighborhood in the southwest portion of the site. Mr. Trudel questioned security measures. He questioned if there will be gates or access control considering the different hours of operation and the accessibility of the car storage area. Mr. Bracken stated that there would not be a gate across the driveway. Mr. Trudel stated that the absence of a gate raises concerns about security and potential liability. He emphasized that without any security measures individuals could access the facility at any time leading to potential insurance liability if damage occurs to stored vehicles. Mr. Trudel suggested considering implementing security measures such as cameras or a gate. There should be measures in place to control access during other times. Mr. Borchert suggested a security fence with an entry code and a surveillance camera system for monitoring. Attorney Reade stated that they will discuss and consider implementing security measures and they will provide further information in the future. Mr. Rector asked if there were any specific flooring or drainage requirements considering the long-term storage nature of the facility. Mr. Bracken stated that there are no interior floor drains or storage of hazardous materials allowed within the building. The drainage system will be designed to handle potential runoff from the vehicle parking surfaces. Mr. Rector questioned any contributions to the reconstruction of Lovers Lane, the streetscape or bikepath in the area, considering that the bike path would be primary means of access. Attorney Reade stated that the primary access to the property might not be from Lover's Lane but rather from the new roadway within the Richmond property, possibly called Ironstone or something similar. Mr. Welch questioned whether the duplex would be targeting employees of the facility or serving as housing for employees of other employers on island. He questioned a management plan if the duplex would be used as a dormitory or if such a situation might arise in the future. Attorney Reade stated that they do not expect the duplex to function as a dormitory. He said that one unit would likely be used as a residence for the manager while the other unit would be rented to the public. Attorney Reade clarified that under no circumstances the rental unit will be used as a short-term rental, it would be prohibited. Chair Iverson opened the floor to the public. Leslie Snell at 23 Woodland Drive expressed concerns and questions about the project, noting that she is not opposed to the general use of the property but has specific concerns to address. She was concerned about the hours of operation, stating that the business hours are acceptable, but she is worried about access to units from 6:00AM to 10:00PM without any gating system. She expressed the potential noise disturbance starting as early as 6:00AM and continuing to 10:00PM as well as the impact of lights and other factors on the residential neighborhood to the south of the site. Mrs. Snell requested a lighting plan, mention for a low-level lighting such as Ballard lights or wall mounted lights and that she may have overlooked any submitted plan if it exists. She requests the applicant to extend taller trees around the corner to the south side of the site. Mrs. Snell emphasizes the importance of a better buffer with taller trees. She mentions not seeing any rendering and asks if there is external access to the storage units or if it is all internal. She expresses concerns about commercial activity expanding into the storage center and contractors using it as their shop and would like more information on the matter. Mr. Bracken stated that they provided a lighting plan, it was the second sheet on the landscape plan that shows the lighting details and the light locations. Mr. Bracken stated that the site plan shows egress points with one main door to the west and three access points to the east along with the sidewalks. He mentioned the possibility of discussing with the landscape architect about extending the tall trees along the parking area possibly up to where the duplex is located to enhance the vertical buffer. Attorney Reade confirms that the units are intended for storage purposes only and are not meant to be used as shops or for any commercial activities like painting or carpentry.

Motion/Vote: Mr. Rector moved to continue to the next meeting in July. The motion was duly seconded by Mr. Trudel and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

John Trudel *Aye*

Carl Borchert *Aye*

Nat Lowell *Aye*

Chair David Iverson *Aye*

• **K & P Muldoon Family Nominee Trust, 9 Arlington Street, *action deadline 09-10-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: John Trudel

Documentation: File with associated plans, photos and required documentation

Activated: Carl Borchert and Stephen Welch

Representing: Dan Mulloy, Surveyor

Discussion: Mr. Mulloy provides an explanation of the different nature of the application. He states that this is a residential lot in LUG-3, 9 Arlington Street which has been owned by the same family for a long time. The family is facing challenges due to restrictions and regulations that prevent them from utilizing the property as they would like. The current application seeks a Special Permit for a primary use residential garage. The reason for this is that the property cannot support a septic system or a well due to septic system and well regulations. The applicant had approached the Board of Health for variance relief, but it was denied. Therefore, they are proposing the construction of a residential garage without water sources, bathrooms, or septic systems. The purpose of the structure is solely for residential use and not for commercial purposes. The purpose of the proposed residential garage is to provide a space for property owners, particularly in the Tom Nevers area, to store their vehicles. Mr. Mulloy stated that the garage will only have electric utilities and will not have a water source, bathroom, or septic system. Mr. Mulloy explains that this proposal is the last option for the property owners to find a suitable use for their property which they have owned for generations. The owners have been restricted from using the property in any other way and are now seeking a Special Permit to construct a residential garage since a dwelling cannot be built. The purpose of the garage is to provide a use for the property which is currently listed for sale. Mr. Mulloy stated that the owners aim to obtain some value from the property after years of ownership and paying taxes. Chair Iverson opened the floor to the public. Attorney Steven Cohen stated that he represents one of the neighboring property owners, Ingrid Kolb who is an opposition to the proposed residential garage. Attorney Cohen stated that Ingrid Kolb had already opposed the project at the Board of Health and is present to express opposition based on different reasons within the jurisdiction of the Planning Board. Attorney Cohen stated that he sympathizes with the family's situation of owning unbuildable land but states that the proposed 1500 square foot garage which is 60 feet wide suggesting that it lacks consideration for appropriateness in the area. Attorney Cohen stated that the Planning Board has the authority to permit garages as a primary use on a lot but in his understanding and experience this typically done when the garage is associated with a nearby residence such as across the street or in proximity. Attorney Cohen states that the building is larger than most houses in the neighborhood and speculates that it may be used as a warehouse or for other nonresidential purposes. Attorney Cohen firmly believes that the application should be denied by the Planning Board due to these reasons. Mr. Lowell raises concerns about the size of the proposed garage due to its width. He questioned how many doors it will have and speculates about the number of cars it can accommodate. Mr. Mulloy stated that he is unsure if there has been any direct contact with or attempt to sell the land. However, he stated that there is no benefit for the neighboring property owner in terms of lot size or any other advantages due to the abutting lot size and the size of the proposed garage. The only benefit would be open space. Mr. Mulloy expresses a willingness to reduce the size to a two-car garage if that is something the Board would consider. Mr. Mulloy mentions that the landscaping plan includes restrictions to preserve vegetation and provide a buffer around the perimeter of the lot. Mr. Lowell stated that he had not encountered something like this before. Mr. Lowell stated that the long-term ownership of the land and the taxes paid on unbuildable property should offer some advantages. Mr. Welch suggests exploring

the possibility of making the lot work through a Town program for affordable housing. He expressed his opinion that the proposed garage is too large for the current situation. Mr. Welch stated that applying numerous conditions if the proposal were to be approved to prevent any potential issues from arising. Ron Arigo at 5 Arlington stated that the applicant should do what they did which was they recently purchased number 3 Arlington an adjacent small lot and plan to increase their ground cover. Also mentioned the possibility of using the property as a green space or building a garage in the future. Mr. Arigo stated that it is a family neighborhood, and he hoped the neighborhood's character would be respected. Attorney Arthur Reade representing Leslie Lloyd who is a direct abutter, briefly gives out the history of residential garages under zoning. Kathleen Cavanaugh expressed concerns about the proposed construction of a commercial garage on a lot. She expressed concern about who will be managing and maintaining the garage. The construction of the garage Ms. Cavanaugh believes will set a negative precedent for other small lots in the Tom Nevers area. Sarah Bartlett stated that Mr. Welch had made some great points. Ms. Bartlett reiterated her neighbors' concerns which she also expressed that she had the same concerns. Ms. Bartlett expressed concern about the high risk in their neighborhood where the houses are close together about the potential fire hazard. She also pointed out that they are at a dead-end street, if anything were to happen on the back they would be trapped. Ms. Bartlett stated that it sets a precedent for non-conforming lots and expressed worry about the impact on the character of the neighborhood. She stated that she received a message from another neighbor who stated that the construction of a garage would be against the regulations outlined in Article 3 specifically reference to use and intensity regulations 139-7B 4. The neighbor believed that the garage would not align with the neighborhood's character and would have a negative impact. Attorney Sarah Alger said that the proposed garage is too large and overdone. She said that the proposed garage should be in line with the residences in the area. Leslie Lloyd at 12 Berkely Street provided some background information stating that she has owned their home for nearly 15 years and has raised their family there. She expressed her love for the Tom Nevers West neighborhood which consists of year-round and seasonal residents. She stated that given the significant size of the proposed building she doubted that it would be anything other than a dwelling and is very concerned with the size of the building. Donna DePriest at 13 Arlington emphasized the importance of remembering that they are a neighborhood. She stated that uninhabited structures only lead to future problems. Ingrid Kolb thanked Attorney Cohen for representing her views effectively. She echoed same concerns by the previous speakers regarding the construction of a commercial garage in the middle of the street which would alter the neighborhood's character and potentially decrease property value. Sarah Bartlett mentioned that the neighbor directly behind the proposed garage offered to purchase the property likely for a nominal amount compared to the requested \$539,000 but the owners were not interested and were looking for a larger profit. Mr. Rector said that there is no potential benefit from the lot's current state, stating that it is in a bad location. Mr. Rector mentioned that he had looked at the GIS map and suggested that a far-fetched possibility would be to talk to the people at 13 Berkely and explore the option of reconfiguring the lots and Norwood Court. Mr. Rector acknowledged that this would involve many moving components. Mr. Rector stated that he agreed with his colleagues that the current configuration of the lot is susceptible to potential abuse and raised concerns about monitoring it over time. Mr. Mulloy stated that he is willing to entertain the idea if the Board was also willing to consider reducing the size of the proposed garage to a simple two car, one story structure. He acknowledged and understood the concerns raised by the neighbors. Mr. Mulloy stated that the property owners have the right to request the permit even though the Board is not obligated to grant it. Chair Iverson raised concern about the proposed garage if it does not serve the purpose of housing or benefiting a neighbor. He believes this situation would create problems for the neighbors who would have to frequently contact the Zoning Enforcement Officer (ZEO). Also Chair Iverson expressed that he finds it discomfoting constructing a structure for someone who does not live nearby or have regular access to it especially if they are not residents of the island. Mr. Rector questioned if the Board had any previous approvals of a similar concept involving a two car or one car garage. Mrs. Snell stated that she recalled a couple of instances where a garage was approved for an owner who had a house across the street or nearby. Clay Twombly owner of 7 Arlington stated that Attorney Alger has spoken on their behalf and wanted to put their two cents in.

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

Vote taken by Roll Call:

Barry Rector *Aye*
Nat Lowell *Aye*
Carl Borchert *Aye*
Stephen Welch *Aye*
Chair David Iverson *Aye*

Mr. Mulloy expressed his intention to save the Board's time by suggesting a course of action. He requested a withdrawal without prejudice.

Motion/Vote: Mr. Rector made a motion to accept the withdrawal without prejudice. The motion was duly seconded by Mr. Welch and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Stephen Welch *Aye*
Nat Lowell *Aye*
Carl Borchert *Aye*
Chair David Iverson *Aye*

- **Joseph J. & Marcia J. Aguiar – Marks Way Subdivision, 68 Fairgrounds Road, *action deadline 09-09-2023***

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Dan Mulloy, Surveyor

Discussion: Mr. Welch asked if he could be excused (10:23PM) and was granted permission. Mr. Borchert asked if he was needed for the rest of the meeting (10:23PM) and he was excused from the meeting. The property was zoned as R-40 and the definitive application of creating two lots under an approval required subject on the road. The intention was to follow this up with a rear lot subdivision containing two lots. Chair Iverson opened the floor to the public. No comment was made.

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

Vote taken by Roll Call:

Barry Rector *Aye*
John Trudel *Aye*
Nat Lowell *Aye*
Chair David Iverson *Aye*

Motion/Vote: Mr. Rector made a motion to approve the application with the findings and conditions outlined in the staff report. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Nat Lowell *Aye*
John Trudel *Aye*
Chair David Iverson *Aye*

- **P & M Reis Trucking, Inc. – MJ Way Subdivision, 10 Green Meadows**, *action deadline 09-09-2023*

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham (Absent), John Trudel, Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Dan Mulloy, Surveyor

Discussion: The application is a proposal to create two lots on the property, and these lots are oversized. The property is also eligible for a rear lot subdivision which the applicant's intention to follow up with a rear lot subdivision for two lots. Mr. Mulloy was satisfied with the staff report and that the only question he had was whether the Board wanted to discuss any type of gifting as a condition. Chair Iverson questioned the absence of language in the application regarding the need for the applicant to return once approved by the ANR. Mrs. Trudel stated that this language was not included initially because the application was not presented as such. Mrs. Trudel stated that we can add that language in the condition. Mr. Mulloy stated that based on past history they have entertained offers of around \$2000 per building permit. There was a request that this contribution be added to the decision. Chair Iverson opened the floor to the public. Jill Sandole mentioned being a long-term resident in a peaceful neighborhood for 28 years where she raised her son. She described the neighborhood as family oriented and stated that most residents had lived there for a similar duration. Ms. Sandole expressed concern about a new structure being built just 10 feet from her backyard. Chair Iverson stated that the owner had the legal right to proceed, however, when the owners come back for the rear lot, they can be asked to install appropriate buffering between Ms. Sandole's lot and the structure. Ms. Sandole expressed confusion about the concept of a rear lot. Mr. Lowell assured Ms. Sandole that he would personally speak with her to provide clarification. Mr. Lowell explained that in the past, zoning allowed for extensive development possibilities although the value of the land was not considered at the time. Chair Iverson acknowledged Ms. Sandole's frustration and assured her that the Board would work to mitigate the situation in the next step. Mr. Rector asked Mrs. Snell or Mrs. Trudel the possibility of establishing a maximum vegetative buffer. Mrs. Snell stated that typically buffers are not required for residential subdivisions. However, she suggested exploring the possibility of creating a relatively dense vegetated buffer within the setback area to provide some form of separation. Mrs. Trudel stated that she didn't have specific information about the placement of the second dwelling on the lot. Mr. Mulloy was asked if his client would be willing to plant a substantial buffer along the property line. He responded by stating that he could bring up the topic with his client. He said that he couldn't make any promises now but agreed to raise the topic for consideration.

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

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

John Trudel *Aye*

Chair David Iverson *Aye*

Motion/Vote: Mr. Rector made a motion to approve the application with the findings and conditions outlined in the staff report, a contribution of \$2000 per lot be made and the potential for the subdivision to become a rear lot subdivision. Mrs. Trudel clarified that the \$2000 would be charged only for building permits for dwelling units because it should only be tied specifically to the intensity. Chair Iverson also to implement the ANR into the decision. The motion was duly seconded by Mr. Mr. Trudel and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

John Trudel *Aye*

Chair David Iverson *Aye*

➤ **Public Comment** *for items not listed on the agenda*

There was no public comment.

➤ **Other Business:**

- **Planning Board regular meeting – Monday, July 10, 2023, at 4PM via Zoom**

XI. Adjournment:

Mr. Rector made a motion to adjourn the meeting at 10:41PM and the motion was duly seconded by Mr. Trudel. The motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

John Trudel *Aye*

Nat Lowell *Aye*

Chair David Iverson *Aye*

Submitted by: Catherine Ancero