



ZONING BOARD OF APPEALS

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

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

~~ MINUTES ~~

Thursday, July 14, 2022

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

Called to order at 1:05 pm and announcements made by Ms. McCarthy

Staff in attendance: Leslie Snell, Deputy Director of Planning; Adrian Rodrigues, Administrative Specialist; Terry Norton, Town Minutes Taker

Attending Members: McCarthy, Botticelli, O'Mara, Allen, Poor, Thayer

Absent: Toole, Mondani

Adoption of Agenda

Motion **Motion to Approve as amended.** (made by: Botticelli) (seconded)

Vote Carried unanimously

I. APPROVAL OF MINUTES

1. May 12, 2022 O'Mara last page today corrected that he did not rep the seller

Motion **Motion to Approve as amended.** (made by: Botticelli) (seconded)

Vote Carried unanimously

2. June 09, 2022

Motion **Motion to Approve.** (made by: Allen) (seconded)

Vote Carried unanimously

II. OLD BUSINESS

1. 37-21 Kristina & Nicholas Amendolare 8 Bank Street Williams
Continued to August 11, 2022

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

Alternates Thayer

Motion **Motion to Continue to August 11th.** (made by: Botticelli) (seconded)

Vote Carried 5-0

2. 22-21 Adam Delaney-Winn, Trustee of Warren's Landing Nominee Trust Reade
Continued to August 11, 2022

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

Alternates Thayer

Motion **Motion to Continue to August 11th.** (made by: Botticelli) (seconded)

Vote Carried 5-0

III. NEW BUSINESS

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

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

Voting McCarthy, O'Mara, Poor, Thayer

Alternates None

Recused Botticelli, Allen

Documentation File with associated plans, photos and required documentation

Representing Dan Bailey, Pierce & Atwood, LLP

Public Nina Pickering-Cook, Anderson Kreiger, for Christopher McCausland @ 11 Lincoln Avenue
Linda Williams

Discussion (1:09) **Bailey** – The structure is non-conforming with respect to height only. Moving 5' closer to the street; also relocating an existing garage to comply with the 5' setback. There is no detriment to the neighborhood.

O'Mara – It's his understanding the ridge elevation is pre-existing non-conforming and will not get higher when it moves.

Pickering-Cook – Her client opposes moving this historic structure at all. The plans do not include any elevation showing the impact the move will have on the abutters. Feels a site visit is warranted to determine if the move would be more detrimental to the neighborhood. The plans also don't show a curb cut on Lincoln or a pool in the rear; feels the Board should have a full set of plans. Regarding legal standards, under 139-33a, we believe moving it forward and closer to the abutters is more detrimental as, due to its height, it becomes more imposing. There is a case Eburn v Zoning Board of Appeals of Dennis from 2013 where the court found that moving a structure forward was more detrimental because it would tower over the abutters more than it had before; in that case the height was being increased.

McCarthy – Regarding the 5' move, asked why.

Bailey – To create additional space in the back yard. This proposal is in keeping with the density of the area.

Williams – Almost every structure on Lincoln Circle is closer to the street than this one; it's large front yard is an anomaly. Feels moving it 5' forward won't have any detrimental effect on the neighborhood.

O'Mara – Any approval should be conditioned on the height be documented.

Motion **Motion to Approve the request conditioned that the ridge height be documented on the as-built.** (made by: Thayer) (seconded)

Vote Carried 4-0

2. 08-22 James & Jennifer Soltesz 2 Grey Lady Lane Williams

Applicants are seeking a Special Permit pursuant to Zoning Bylaw Section 139-16C(2). (Intensity regulations to validate an unintentional setback intrusion into the required 5-foot side yard setback area). In the alternative, Applicants are seeking relief by Variance pursuant to Section 139-16 to validate the unintentional sideline setback intrusion of approximately one (1) inch at the rear corner of the enclosed porch. Locus is situated at 2 Grey Lady Lane, shown on Assessor's Map 66 as Parcel 701 and upon Plan Book No. 1736 Page 58. Evidence of owner's title is recorded in Book 1736, Page 58 on file at the Nantucket County Registry of Deeds. The site is zoned Residential-5 (R-5).

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

Alternates Poor

Recused None

Documentation File with associated plans, photos and required documentation

Representing Linda Williams

Public None

Discussion (1:28) **Williams** – Reviewed the request and reason for it. The abutter has indicated they have no concerns.

Botticelli – Asked if we have a surveyor's letter (no).

Thayer – With this design built to the dimensions, it was never going to fit. Doesn't understand how this happened.

McCarthy – It would help to see the step-by-step progression that led to this intrusion.

Allen – If it wasn't a padded corner with a trim board, asked if it would be over (yes). Asked if the plywood could be cut back.

Botticelli – She has a hard time believing Don Bracken, Bracken Engineering, would have staked the structure so close to the setback. The surveyor made a mistake pinning the foundation.

McCarthy – Wants to see the licensed survey; it would allow the Board to grant the permit. She wants to see all the steps along the way. We can't approve this without all the requisite information.

Additional documents requested: construction plans with building permit, licensed engineer letter/survey, Historic District Commission approval.

Motion **Motion to Continue to August 11th.** (made by: Botticelli) (seconded)

Vote Carried 5-0

IV. OTHER BUSINESS

1. Adoption of Codified Comprehensive Permit Regulations

Discussion (1:42) **Snell** – Explained that the Town is codifying all regulations into a single document.

Motion **Motion to Approve the Comprehensive Permit Regulations as drafted.** (made by: Allen) (seconded)

Vote Carried unanimously

2. Election of Officers:

a. Chair: Ms. McCarthy volunteered as Chair

b. Vice Chair: Ms. Botticelli volunteered as Vice Chair

c. Clerk: Allen volunteered to be Clerk

Motion **Motion to Approve the slate of officers.** (made by: O'Mara) (seconded)

Vote Carried unanimously

V. EXECUTIVE SESSION

Motion **Motion to go into Executive Session under G.L.c.30A, §21(a)(3) for the purpose of discussing strategy with respect to litigation, where the Chair has determined that an Open Meeting may have a detrimental effect on the Litigating Position of the Zoning Board of Appeals.**
Reason # 3, where the Chair has determined that an Open Meeting may have a detrimental effect on the Litigating Position of the Zoning Board of Appeals regarding the case of Maddalone v. Nantucket ZBA and Metz.
Reason # 3, where the Chair has determined that an Open Meeting may have a detrimental effect on the Litigating Position of the Zoning Board of Appeals 3 regarding the case of Surfside Crossing LLC v. Nantucket Zoning Board of Appeals at 1:47 pm. with the intent not to return to open session. (made by: Botticelli) (seconded)

Voice vote Carried 6-0//Poor, Allen, Botticelli, McCarthy, O'Mara, Thayer

Submitted by:
Terry L. Norton