



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, August 11, 2022

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

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

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

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

Approval of Agenda

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

I. APPROVAL OF MINUTES

1. July 14, 2022
Motion **Motion to Approve as drafted.** (made by: Allen) (seconded)
Vote Carried unanimously

II. OLD BUSINESS

1. 37-21 Kristina & Nicholas Amendolare 8 Bank Street Williams
Continued to September 08, 2022

Voting McCarthy, Botticelli, O'Mara, Allen
Alternates Poor, Thayer
Discussion None
Motion **Motion to Continue to September 8.** (made by: Allen) (seconded)
Vote Carried 4-0

2. 22-21 Adam Delaney-Winn, Trustee of Warren's Landing Nominee Trust Reade
Continued to September 08, 2022

Voting McCarthy, Botticelli, O'Mara, Allen
Alternates Poor, Thayer
Discussion **Snell** – She anticipates this will eventually be withdrawn; the applicant and neighbor are working out issues.
Motion **Motion to Continue to September 8 with the caveat that Ms. Botticelli & Mr. O'Mara won't be here.** (made by: Botticelli) (seconded)
Vote Carried 4-0

3. 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, Poor
Alternates Thayer
Recused None
Documentation File with associated plans, photos and required documentation
Representing Linda Williams
Jennifer Soltesz, co-owner

Public None
Discussion **McCarthy** – Had requested a letter from Don Bracken, Bracken Engineering which came in yesterday.
Williams – Less than 1 square foot (sf) intrusion; neighbor has submitted a letter of no concerns. Condition would be no further construction in setback without permission of the Board.
McCarthy – The plans stamped approved by the Historic District Commission (HDC) show a jog in the porch and no intrusion into the setback.

Discussion about the plans which show a jog in the porch and intrusion into the setback versus the assertion there is no jog in the porch.

Allen – Asked who did the work and if they explained what happened.

Williams – That is in Mr. Bracken’s letter. The builder goes off the pinning of the foundation.

McCarthy – This is the 2nd time we’ve seen this with a modular construction. The plans said something that was conforming then it went to something else without HDC approval. Questioned if the builder was going off incorrect plans. Asked when the foundation was done. We asked for the building permit.

Botticelli – They widened the porch after Mr. Bracken laid out the foundation; that’s why we have a problem.

Williams – The second builder was Jeff Morash, who relied on Mr. Bracken’s Dreamline plan approved by the HDC.

McCarthy – No one is taking responsibility and it should have been caught. These are professionals who should have known it was going to be a problem.

Allen – Asked if there are other options other than just approving it or asking them to correct the intrusion. She thinks this was an honest mistake.

Thayer – We’ve seen similar encroachments come in time after time; houses are designed too close to the setback, which is a huge mistake.

O’Mara – The Board has required a house be moved; we’ve approved the variance for a few; we’ve put conditions on the approval that if more work is going to be done, they have to clean up the error.

McCarthy – It’s small enough that asking them to chop it off would be excessive. We asked for the application and the permit to see a timeline of progression; we got just the schematics. We are trying to find a way to say that the burden of proving it a mistake has been met and we can issue the special permit. That construction timeline should be in the file.

Discussion about discrepancies between the HDC approval and construction of the porch.

Motion

Motion to Approve the special permit with no additional groundcover without relief from the Board at which time the Board may consider a requirement that the encroachment be corrected. (made by: Allen) (seconded)

Vote

Carried 5-0

III. NEW BUSINESS

1. 09-22 Harris on Weweeder, LLC 50 Weweeder Avenue Brescher
 Applicant is seeking Variance Relief pursuant to Zoning Bylaw Section 139-32 from the intensity regulations of Section 139-16A to site a proposed pool cabana in the side yard setback as close as 2.7 feet from the side yard lot line in a zoning district that requires a minimum of a ten (10) foot side yard setback and to increase the allowable groundcover ratio to 7.9% in a zoning district with a maximum groundcover ratio of 7%. Locus is situated at 50 Weweeder Avenue, shown on Assessor’s Map 79 as Parcel 15 and upon Land Court Plan 42927-A. Evidence of owner’s title is registered on Certificate of Title No. 27684 with the Nantucket County District of the Land Court. The site is zoned Limited Use 1 (LUG-1).

Voting McCarthy, O’Mara, Allen, Poor, Thayer

Alternates Botticelli

Recused None

Documentation File with associated plans, photos and required documentation

Representing John Brescher, Glidden & Glidden, P.C.

Public None

Discussion **Brescher** – Explained the request. The structure is now framed out. This property is subject to 2 yard sales, which haven’t been completed.

McCarthy – Suggested a site visit. She wants to see the “level of egregiousness.”

O’Mara – Suggested Mr. Harris come in as well.

Allen – She wants to see the building permits for each structure on the lot and status of construction for each; that would confirm all permits are being adhered to.

McCarthy – She wants to see a site plan with current and proposed property lines and marking the setbacks.

Snell – There was an expectation that this plan was going to clear the Land Court, and it didn’t. That might explain the surveyor.

O’Mara – The Land Court has been overloaded the past few years; that coupled with the small financial state could mean no one is interested. This has been at Land Court for about 10 years.

Brescher – The paper streets to the south are assessed at about \$3 per square foot and sold at about \$21,000.

McCarthy – We could continue this to allow for submission of a site plan and timeline and allow for a site visit.

Motion

Motion to Continue to September 8th. (made by: Allen) (seconded)

Vote

Carried unanimously

IV. OTHER BUSINESS

1. Snell – Introduced Billy Saad a new Land Use Specialist.

V. ADJOURNMENT

Motion **Motion to Adjourn at 2:04 pm.** (made by: Botticelli) (seconded)

Roll-call vote Carried unanimously

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

1. None

Submitted by:

Terry L. Norton