

1. Planning Board Staff Report 01.10.22

Documents:

[01-10-22 STAFF REPORT.PDF](#)



Nantucket Planning Board

STAFF REPORT

January 7, 2022

To: Planning Board

From: Megan Trudel,
Land Use Specialist

Re: Staff Report for January 10, 2022 Planning Board Meeting

Call to order:

Approval of the agenda:

Note: The applications and plans submitted for secondary dwellings, garage apartments, tertiary dwellings, and ANR have all of the relevant information, which is easily identifiable, that was previously outlined in the staff report narrative. In addition to the application and proposed site plan, included with your packet is a draft approval letter for each of the secondary dwellings, garage apartments, tertiary dwellings that outlines conditions.

All applications have been thoroughly reviewed by staff for compliance.

Criteria for Secondary Dwellings:

- Confirmation that a secondary dwelling is allowed by right in that zoning district (and/or subdivision if applicable)
- Adequacy of access
- 10ft scalar separation
- 80/20 compliance
- Parking calculations
- Apron and driveway dimension requirements

Criteria for Garage Apartment

- Garage Apartments are permitted in all districts pursuant to the "Use-Chart"
- Adequacy of access
- That the living area does not exceed 150% of the garage area (if it did it would be a secondary dwelling and not a garage apartment)

- Parking calculations
- Apron and driveway dimension requirements

Criteria for Tertiary Dwelling

- Confirmation that a tertiary dwelling is allowed by right in that zoning district (and/or subdivision if applicable)
- Adequacy of access
- Parking calculations
- Apron and driveway dimension requirements
- Confirmation of which unit on the site will be owner occupied or owned by a non-for-profit, religious, or educational entity, or shall be subject to a restriction limiting occupancy to a year-round household
- Compliance with the maximum bedroom count (only applicable for tertiary dwellings in the R-5, R-10, & R-20 zoning districts)
- Confirmation that the unit does not exceed 650 square feet of gross floor area

*****RECOMMEND MOTION*****

Motion to approve ALL of the secondary dwellings and garage apartment, and tertiary dwelling applications on the agenda with any findings and/or conditions as written in the draft approval letters included with your packet (*pull any application(s) from this motion that the Board feels may require further discussion or if there are any applications where a Board member must recuse*).

Secondary Dwellings:

- Philip & Denese Allen, 6 Deer Run Road (Map 57, Parcel 14.5)
- 32 Woodbine LLC, 32 Woodbine Drive (Map 80 Parcel 188)

Garage Apartments:

- Jeffrey B. & Patricia Haines Trust, 23 Stone Post Way (Map 73.3.2, Parcel 71-Lot 9)
- Leslie Snell, 23 Woodland Drive (Map 68, Parcel 261)

Tertiary Dwellings:

- Philip & Denese Allen, 6 Deer Run Road (Map 57, Parcel 14.5)

*****RECOMMEND MOTION*****

Motion to approve and endorse the Arugia Street ANR and hold 69 Cato Lane, which will first require approval of a Special Permit

ANR

- Town of Nantucket, Auriga Street, Surfside

Representation: Mike Connolly

The purpose of this plan is a roadway taking as a part of the yardsale program. Planning staff recommends endorsement.

- 69 Cato Lane Realty Trust, 69 Cato Lane (Map 66 Parcel 15) – **SEE PUBLIC HEARING**

Previous Plans:

- Bittersweet Lane Subdivision, 14 Somerset Road, *extension request*

Representation: Mary Anne Stanton

The Applicant is requesting an extension for the submission of the legal documents. Planning staff recommends approval of the Applicant’s request to extend the deadline for one year, until January 10, 2023.

- 13 Waydale Road, Secondary Dwelling, *extension request*
- 13 Waydale Road, Tertiary Dwelling, *extension request*

Representation: Stephen Welch

The Applicant is requesting to extend the approval for the secondary and tertiary dwellings to February 23, 2023 so that the approval aligns with other permits for the property. Planning staff recommends approval of the Applicant’s request as proposed.

- 12 Gray Avenue, *Performance Surety Request*

Representation: Allan LaFrance

The Applicant is proposing to be released from Condition #7 of the Rear Lot Special Permit decision, which states that an as-built plan (which would include completion of the shared driveway) must be submitted to staff prior to the issuance of a CO and/or submit a Performance Surety Bond for the estimated construction to complete the shared driveway, plus 20% (\$22,920) so that a CO may be obtained prior to construction of the shared driveway. If the Board were to allow the Applicant to be exempt from Condition #7, the next property owner requesting a CO would then be responsible.

Public Hearings (Applications):

- 27 Fair Street, LLC, 27 & 29 Fair Street, *action deadline 02-13-2022*

REQUEST TO CONTINUE TO FEBRUARY 14, 2022

- 23 Broad Street Owner, LLC, Brotherhood of Thieves, 23 Broad Street, *action deadline 03-31-2022*

REQUEST TO CONTINUE TO FEBRUARY 14, 2022

- Randolph P. Norris, Trustee of Norris Family Trust, 9 Bayberry Lane, *action deadline 04-10-2022*

Representation: Arthur Reade

The applicant is proposing a two (2) lot rear lot subdivision. The AR plan to support the Rear Lot was approved by the Planning Board, but the decision and plan was not filed and therefore a Rear Lot Special Permit may not be filed at this time. The AR plan included with the application is not approval-able without waivers. Once the AR decision is filed and the appeals period lapses, then the Rear Lot Special Permit may be considered.

Planning staff recommends that the Applicant continue the hearing until the AR decision has been

filed and the appeals period has lapsed.

• **69 Cato Lane Realty Trust, 69 Cato Lane, action deadline 04-10-2022**

Representation: Tori Ewing

***Note: Barry Rector will be recusing from this public hearing, an alternate must be activated to vote.*

The applicant is requesting a Special Permit to create a secondary residential lot for year-round residents. The covenant lot will be proposed Lot 2, which has approximately 11,731 square feet of lot area. The proposed market rate lot, Lot 1 has approximately 17,344 square feet of lot area. Both lots will be accessed by Cato Lane, a public, paved roadway of sufficient width, suitable grade and adequate construction. There are no additional waivers requested.

Planning staff recommends approval of the Applicant's request as proposed, with the following findings and conditions:

Findings:

- 1) That the proposal advances the intent of the zoning bylaw by creating housing for year- round residents;

Conditions:

- 1) That proposed Lot 2 shall be subject to a Nantucket Housing Needs Covenant Ownership form, which shall provide without limitation, that owners and any occupants of any dwelling thereon, shall earn at or below 150% of the Nantucket County median household income;
- 2) That Lot 1 may be allowed a Secondary Dwelling (Tertiary Dwelling standards) and that Lot 2 shall be restricted to a single dwelling;
- 3) That the total ground cover ratio for both lots shall not exceed the amount otherwise allowed for the original lot (12.5%), or as otherwise specified in 139-8C; and
- 4) That an Approval Not Required (ANR) plan to establish each lot is a necessary step to implement this permit.

➤ **ANR: 69 Cato Lane Realty Trust, 69 Cato Lane (Map 66 Parcel 15)**

The purpose of this plan is to implement the Secondary Lot Special Permit. If the Special Permit has been approved, planning staff recommends endorsement.

• **Whalebone Realty Trust, Harvey S. Young Trustee, 12 Larrabee Lane, action deadline 04-10-2022**

Representation: Jessie Brescher

***Note: Dave Iverson will be recusing from this public hearing, an alternate must be activated to vote.*

The applicant is requesting a Special Permit to create a secondary residential lot for year-round residents. The covenant lot will be proposed Lot 2A, which has approximately 4,964 square feet of lot area. The proposed market rate lot, Lot 2B has approximately 5,275 square feet of lot area. Both lots will be accessed by Larrabee Lane, a private dirt roadway of sufficient width, suitable grade and adequate construction. Additionally, the Applicant is requesting a waiver of the interior lot line from ten (10) feet to five (5) feet to

accommodate an existing shed.

Planning staff recommends approval of the Applicant's request as proposed, with the following findings and conditions:

Findings:

- 1) That the proposal advances the intent of the zoning bylaw by creating housing for year- round residents;

Conditions:

- 1) That proposed Lot 2A shall be subject to a Nantucket Housing Needs Covenant Ownership form, which shall provide without limitation, that owners and any occupants of any dwelling thereon, shall earn at or below 150% of the Nantucket County median household income;
- 2) That Lot 2B may be allowed a Secondary Dwelling (Tertiary Dwelling standards) and that Lot 2A shall be restricted to a single dwelling;
- 3) That the interior lot line set back shall be reduced from ten (10) feet to five (5) feet;
- 4) That the total ground cover ratio for both lots shall not exceed the amount otherwise allowed for the original lot (12.5%), or as otherwise specified in 139-8C; and
- 5) That an Approval Not Required (ANR) plan to establish each lot is a necessary step to implement this permit.

• **Ernest J. Weinhold, Jr. & Mary E. Mitchell Splaine (Modification #4),
Wherowhero & South Shore Road, action deadline 04-28-2022**

Representation: Peter Kyburg

***Note: John Trudel will be recusing from this public hearing, Dave Iverson will be acting chair and NO alternate will be activated because the application is a Subdivision Amendment.*

The Applicant is proposing to amend the Subdivision decision to reduce the required vegetative buffer along Lot B from thirty (30) feet to twenty (20) feet. Since the initial approval of the subdivision, the zoning has changed from LUG-2 to LUG-1.

Planning staff recommends approval of the Applicant's request as proposed with the following finding and condition:

Findings:

- 1) That Applicant's request is within the general purpose and intent of the Nantucket Zoning Bylaw and the *Rules and Regulations Governing the Subdivision of Land*; and
- 2) That the reduction of the vegetative buffer from thirty feet to twenty feet is appropriate because the minimum lot size in the subdivision has been decreased from 80,000 square feet to 40,000 square feet since the creation of the subdivision and a twenty-foot vegetative buffer still within keeping of the rural characteristics of the neighborhood.

Conditions:

- 1) That the vegetative buffer along the property line of Lot B abutting Wherowhero Lane

- shall be reduced from thirty (30) feet to twenty (20) feet; and
- 2) That all other conditions of the original decision shall remain in full force and effect.

• **Bonita Bar, LLC, 1, 2 & 4 Chin's Way**, *action deadline 04-10-2022*

Representation: Paul Santos

At the December 2021 Planning Board meeting, the Board discussed the proposal conceptually with the Applicant at the December 2021 Planning Board meeting. At that meeting, the Board was receptive to the Applicant's request as proposed. Unless there is something new to discuss, or public in attendance to participate in the hearing, this should not require much discussion.

The Applicant is requesting to modify the existing "MCD" Special Permit so that they may construct an addition (400 square feet of finished space and 300 square feet of unfinished storage space), eliminate 600 square feet of previously approved retail use, and continue to allow the use of outdoor seating as was temporarily allowed as a result of the COVID-19 pandemic. The outdoor seating would be limited to a total of twenty-nine (29) seats, and the overall seating/occupancy capacity will remain unchanged.

Planning staff recommends approval of the Applicant's request as proposed with the following findings and conditions:

Findings:

- 1) That the Applicant's request is in harmony with the general purpose and intent of the Zoning Bylaw.

Conditions:

- 1) That the Applicant may utilize the area to the front to the restaurant for outdoor dining at the Applicant's discretion, as long as the overall seating capacity is not increased;
- 2) That all other conditions in the original decision and subsequent modifications shall remain in full force and effect.

• **Clarke Brothers Realty LLC, 20 Tomahawk Road**, *action deadline 04-10-2022*

Representation: Tori Ewing

The Applicant is requesting a Special Permit for an Apartment so that approximately 600 square feet of area on the second floor of the existing structure may be converted into an employee housing unit. Additionally, the Applicant is requesting a waiver from the off-street parking requirements. Four (4) spaces are provided while five (5) spaces are required.

The original subdivision decision anticipated a single dwelling unit to be constructed within the commercial structure, but the zoning "freeze" has since expired and an "Apartment" is now a use allowable by Special Permit in the CI zoning district, where it was a use allowed by right in RC-2. Previously, other properties in the subdivision amended the decision so that two units for employee housing may be constructed.

Planning staff recommends approval of the Applicant's request with the following findings and conditions:

Findings:

- 1) That the Applicant's request is in harmony with the general purpose and intent of the Zoning Bylaw; and
- 2) That five (5) parking spaces is physically impossible to provide on the site and waiving one (1) parking space is not contrary to sound traffic, parking, or safety consideration.

Conditions:

- 1) That year-round NRTA bus passes be issued to any occupants of the dwelling unit.
- 2) That the employee housing unit shall be utilized for employee housing of the employees of the business utilizing the commercial space of the structure only.

• **NIR Retail, LLC (Amendment #1), 137 Old South Road, *action deadline 04-10-2022***

Representation: Bryan Swain/Rick Beaudette

The applicant is requesting to modify the existing MCD Special Permit so that two additional bedrooms may be added to the Neighborhood Employee Housing structure that was previously approved as a part to the Major Commercial Development Special Permit. That structure has not yet been constructed. The increase in bedrooms from four (4) to six (6) will increase the occupancy from eight (8) to twelve (12).

While the additional two bedrooms will require an additional two parking spaces pursuant to the Zoning Bylaw, the Applicant has previously received a waiver of six parking spaces on the site. As modified, the Applicant will require a waiver of one additional parking space.

Planning staff recommends approval of the Applicant's request with the following findings and conditions:

Findings:

- 1) That the Applicant's request is in harmony with the general purpose and intent of the Zoning Bylaw; and
- 2) That waiving one (1) additional parking space is not contrary to sound traffic, parking, or safety consideration.

Conditions:

- 1) That all employees living in the Neighborhood Employee Housing units shall be issued NRTA passes and the Employee Management Plan shall be amended to include such language;
- 2) That seven (7) total parking spaces (an increase of one (1) space) shall be waived;
- 3) That a total of six (6) bedrooms (an increase of two (2) bedrooms) shall be allowed in the Neighborhood Employee Housing structure on the site; and
- 4) All other conditions of the original decision and subsequent modification shall remain in full force and effect.

• **6 North Beach Street, LLC, 8 North Beach Street, LLC & 4 Dolphin Court, LLC – "The Brant", 6 & 8 North Beach Street & 4 Dolphin Court, *action deadline 03-13-2022***

Representation: Linda Williams/Mike Wilson

The Applicant is requesting a Special Permit for a Major Commercial Development. The Applicant proposes to continue to use the site as a lodging/guest house, a use allowed by right in the CN zoning district. In this particular case, the total square feet of the commercial use and the amount of guest units prompt the requirement for a Major Commercial Development.

The site, which includes three separate and adjoining lots will contain the existing three structures. Included with your packet is a narrative detailing the proposed renovations to the existing structures. Additionally, the Applicant is proposing to construct a new structure on the site.

Additionally, the Applicant is requesting a waiver from the off-street parking requirement. The proposal includes closing vehicular access from North Beach Street and replacing with pedestrian access. There will be vehicle access and a parking area to accommodate three (3) vehicles off Dolphin Court. The Applicant will actively discourage guests from bringing vehicles and will be providing shuttle services. The Board has routinely included similar conditions in other Transient Residential Permits within close proximity to the Commercial Downtown District.

Finally, the Applicant is requesting a waiver of submission and review of the drainage plans and calculations. Planning staff recommends denying the request of this specific waiver as the site is located in an area prone to flooding and review of drainage plans is critical to the construction and ongoing operations on this site.

Included with your packet is a proposed conditions plan, architectural renderings, a proposed construction management plan, proposed guest house operations management plan, and an email from the Town's consulting engineering Pesce Engineering, summarizing a review of the proposal. It is noted that while it shall not affect the Planning Board decision, this proposal must also receive approval from the Conservation Commission.

With the exception of the requested relief regarding submission and review of drainage plans, planning staff recommends approval of the request as proposed.

Findings:

- 1) That the Applicant's request is in harmony with the general purpose and intent of the Zoning Bylaw;
- 2) A waiver of the drainage plan is not approved because the area is in a flood prone area;
- 3) A waiver of the off-street parking requirements is consistent with other Special Permits granted for Transient Residential Facilities located within close proximity to the Commercial Downtown District.

Conditions:

- 1) That that Town's consulting engineer, Pesce Engineering, shall review and approve all drainage plans and calculations prior to the issuance of any construction permits. Approval of such plans shall be submitted in writing to planning staff;
- 2) That a detailed screening/landscape plan shall be submitted by the Applicant and approved by the Board or their designee prior to the issuance of any construction permits;

- 3) That there shall be no exterior construction between July 1-September 15;
- 4) Alcohol and food service beyond a continental style breakfast/coffee/snacks for guests shall be prohibited;
- 5) NRTA passes will be made available to all employees and guests;
- 6) Bike racks shall be installed on the property and shown on the plan prior to endorsement;
- 7) Promotional materials shall include information discouraging guests from bringing their vehicles and shall include information regarding alternate transportation options;
- 8) That the Applicant will comply with all terms outline in the Construction Management Plan;
- 9) That the Applicant will comply with all terms outlined in the Hotel Management Plan;

Public Hearings (Citizen Warrant Articles)

Included with your packet is the complete text and maps (if applicable) for the articles below as well as the questionnaires completed by the article proponents (map changes only).

- **Zoning Map Amendment** to place properties located at 105/107/109 and other unnumbered lots on Old South Road shown as Map 68, Parcels 164, 135, 166, 174, 209, & 210, currently in the Residential-20 (R-20) district in either the Commercial Neighborhood (CN) district or Commercial Trade and Entrepreneurship (CTEC) district.

The proponent is requesting to change the zoning for this grouping of parcels from R-20 to either CN or CTEC. Planning staff suggest that the Board discuss the possibility of CTEC and planning staff does not support a change to CN, as uses allowed in CN may not be best suited/may be too intense for this area. The Board should also consider a transition point from the commercial zone to the residential zone. Staff supports a transition point of Little Isle Lane, with properties to the East going commercial and the properties to the West remaining residential.

The site currently abuts CTEC to the east and there are also properties located in CTEC across the street. The area plan in this vicinity anticipates commercial uses along Old South Road, but also suggests that commercial development should serve the surrounding neighborhoods with appropriate transitions and buffers and to not have intense/large scale commercial uses beyond 100' of Old South Road.

- **Zoning Map Amendment** to place property located at Old South Road, shown as Map 68, Parcel 208, currently in the Residential-20 (R-20) district in either Commercial Neighborhood (CN) or Commercial Trade and Entrepreneurship (CTEC).
The proponent is requesting to change the zoning from R-20 to either CN or CTEC. This discussion on this individual parcel will be influenced by the discussion of the grouping of parcels listed in the proposed article above.
- **Zoning Map Amendment** to place property located at 44 Skyline Drive currently in the Limited Use Genertal-2 (LUG-2) district in either Residential-5 (R-5) district or Commercial Neighborhood (CN) district.
The proponent has requested to change the zoning with the intent of creating affordable housing. It would not be considered spot zoning, because the property abuts the

Richmond Development, which is a combination of CN and R-5. While planning staff is supportive of creative and unique ways to support affordable housing, the requested zoning change is pre-mature because it's still in a conceptual stage.

- **Zoning Map Amendment** to place all properties (1-12) located on Nobadeer Way currently in the Residential-20 (R-20) district in the Residential-10 Limited (R-10L) district. The proponent is requesting to change the zoning for all properties on Nobadeer Way from R-20 to R-10L. Planning staff is supportive of the proponent's request as proposed. All of the lots on Nobadeer Way are pre-existing non-conforming as to size. The change will bring all of the lots into conformity without the potential for further subdivision. Additionally, in the R-10L zoning district, duplexes and tertiary dwellings are prohibited and secondary dwellings are only allowed by Special Permit. It is noted that because the entire neighborhood is affected, and because no affected property owners signed the petition, planning staff sent a mailing to all property owners and is unaware of any opposition.
- **Zoning Bylaw Amendment** to make technical changes to the definition of "Apartments" to add language that the Planning Board may waive the density requirements by issuance of a Special Permit. Planning staff is supportive of the proponent's request as proposed. The allowance by Special Permit will allow the Board to determine if an increase in density is appropriate on a case by case basis.
- **Zoning Bylaw Amendment** to allow storage containers as a use allowed by Special Permit in the Commercial Mid-Island (CMI) district. The article proponent is requesting that the allowance of storage containers be allowed by Special Permit in the CMI zoning district. Staff has concerns about this request because currently storage containers are allowed by Special Permit in areas with a larger minimum lot size and industrial character. Staff is concerned on how storage containers will be effectively screened on smaller lot sizes with less industrial types of uses from both the public and private ways and from the neighboring properties.

Public Comment:

Other Business:

- **Special Planning Board meeting (Warrant Articles) Monday, January 31, 2022 @ 4:00PM via Zoom**
- **Special Planning Board meeting (Warrant Articles) Monday, February 7, 2022 @ 4:00PM via Zoom**
- **Regular Planning Board meeting Monday, February 14, 2022 @ 4:00PM via Zoom**

Adjournment: