

1. Planning Board Staff Report 02.14.22

Documents:

[02-14-22 STAFF REPORT.PDF](#)



# Nantucket Planning Board

## STAFF REPORT

February 11, 2022

To: Planning Board

From: Megan Trudel,  
Land Use Specialist

Re: Staff Report for February 14, 2022 Planning Board Meeting

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### **Call to order:**

### **Approval of the agenda:**

### **Minutes:**

- November 29, 2021
- December 13, 2021
- January 5, 2022

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 (no applications for this agenda)

- 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 dwelling and garage apartment 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*).**

*It's noted that 8 Old Westmoor Farm appears on the agenda as a Secondary Dwelling, but after further review, it should be classified as a Garage Apartment.*

### Secondary Dwellings:

- **Randolph & Jane Hilst, 1 Golf View Drive (Map 66 Parcel 143)**
- **Michael & Kathy Kobos, 29 Nonantum Avenue (Map 87 Parcel 51)**
- **Colliope Nominee Trust, 20 Gladlands Avenue (Map 80 Parcel 222)**
- **John O'Connor, Trustee of the 22 Pocomo Road Realty Trust, 22 Pocomo Road (Map 14 Parcel 73.1)**
- **3 Skyline Drive, LLC c/o Tim Rogovich, 3 Skyline Drive (Map 79 Parcel 137.21)**
- **Peter B. Goodwin, Manager of 45 Shawkemo Road LLC, 45 Shawkemo Road (Map 27 Parcel 18)**
- **James A. Genthner Trust & Susan Genthner Trust, 128 Surfside Road (Map 80 Parcel 299.1)**
- **Helene Patterson Trust, 19 Brewster Road (Map 54 Parcels 54 & 175.1)**
- **William Schultz, 23 Friendship Lane (Map 56 Parcel 347)**
- **Jonathan A. Jacoby & Suzanne L. Jacoby, 3 Tautemo Way (Map 83 Parcel 22)**

Garage Apartments:

- James B. & Kimberly A. Pignato, 40 Appleton Road (Map 66 Parcel 43)
- Annette M. Hurd et al c/o Eileen Cahill, 10 Brant Point Road (Map 29 Parcel 148)
- Thornewill Design LLC, 12 Waquoit Road (Map 89 Parcel 10)
- Jean-Francois Formela, 8 Old Westmoor Farm Road (Map 41 Parcel 822)

**\*\*\*RECOMMEND MOTION\*\*\***

**Motion to approve and endorse ALL ANR applications on the agenda.**

ANR

- Jonathan A. Jacoby & Suzanne L. Jacoby, 3 Tautemo Way (Map 83 Parcel 22)

Representation: Alan Grady/Don Bracken

The purpose of this plan is to file a perimeter plan.

- Ocean's Dojo, LLC and Taco, LLC, 20 & 22 Bartlett Farm Road (Map 76 Parcel 76.1)

Representation: Alan Grady/Don Bracken

The purpose of this plan is to revise the lot lines on a previously endorsed plan.

- Diane M. Ryder, Trustee, 8 Chatham Road (Map 54 Parcel 230)

Representation: Teddy King

The purpose of this plan is to divide an existing buildable lot into two buildable lots. This application was withdrawn at the January 10, 2022 Planning Board meeting. The Applicant has since recorded a Covenant to restrict the property to not be allowed to be subdivided into more than three (3) lots, which was agreed upon by the Applicant when the zoning district was changed at ATM 2021.

- The Thomas E. Sleeper 2003 Trust, The Jennifer M. Sleeper 2003 Trust, 8 Osprey Way (Map 82 Parcel 40)

Representation: Jeff Blackwell

The purpose of this plan is to file a perimeter plan.

- Harvey S. Young, Trustee of Whalebone Realty Trust, 12 Larrabee Lane (Map 55 Parcel 103)

Representation: Jeff Blackwell

The purpose of this plan is to implement a previously granted (January 10, 2022) Special Permit for a Secondary Residential Lot.

- Shawkemo Ducklands, LLC, 11 Gardner Road (Map 43 Parcel 6)

Representation: Jeff Blackwell

The purpose of this plan is to convey a portion of property.

- Bracebridge H. Young Jr., Trustee, 7 Shawkemo Road (Map 43 Parcel 5)

Representation:

The purpose of this plan is to convey a portion of property.

• **73 North Liberty Street Realty Trust, 73 North Liberty Street (Map 41 Parcel 141)**  
Representation: Jeff Blackwell  
The purpose of this plan is to convey Lot 4 to the abutting property owner.

• **1 Airport Road LLC, 1 Airport Road (Map 68 Parcel 48)**  
Representation: Teddy King  
The purpose of this plan is to divide an existing (1) buildable lot into three (3) buildable lots.

• **7 Airport Road LLC, 7 Airport Road (Map 68 Parcel 49)**  
Representation:  
Representation: Teddy King  
The purpose of this plan is to divide an existing (1) buildable lot into three (3) buildable lots.

• **CMR 11 Osprey, LLC, 11 Osprey Way (Map 82 Parcel 3)**  
Representation:  
Representation: Dan Mulloy  
The purpose of this plan is to file a perimeter plan.

• **Priscilla Johnson, 91 Orange Street (Map 55.4.1 Parcel 29)**  
Representation: Linda Williams/Richard Glidden  
The purpose of this plan is to divide an existing (1) buildable lot into two (2) buildable lots through Ch 41/81L.

**Previous Plans:**

- **Re-endorsement of Maple Lane Subdivision Plans, *Re-affirm vote from 02-07-2022 meeting***

The Board should re-affirm their vote from the February 7, 2022 Planning Board meeting where this item was posted on the agenda within 48 hours of the meeting.

**Public Hearings (Applications):**

- **27 Fair Street, LLC, 27 & 29 Fair Street, *action deadline 04-30-2022***  
***CONTINUE TO MARCH 14, 2022 PLANNING BOARD MEETING***

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

**VOTING: John Trudel, Nat Lowell, Dave Iverson, Fritz McClure, Barry Rector**  
**FROM THE OCTOBER 25, 2021 STAFF REPORT:**

Representation: Sarah Alger

The Applicant is proposing to modify the existing MCD Decision to allow changes, renovations and an addition to the property. The Applicant proposed to maintain the downstairs restaurant and convert the downstairs kitchen to a micro distillery, brewery, and winery. The upstairs restaurant would operate as a separate entity but would share the upstairs kitchen. The existing upstairs dining area would remain, and the Applicant is proposing the addition of a new bar area and an area for indoor live performances. As shown on the site plan and floor plan, a small addition of 107 sq ft is being proposed on

southwest portion of the building.

On the exterior, the existing awning will be replaced to allow for better sound distribution and attenuation. The Applicant is proposing an outdoor bar area and an area for live acoustic music. Food service will be available to the patio area through the upstairs kitchen and operator. The Applicant is requesting that the exterior occupancy load be increased to 195.

The Board should discuss with the Applicant ways to mitigate concerns of the surrounding property owners.

The Board should also consider conditions of other decisions in the area to remain consistent (Roberts Collection for example). Conditions in that decision include such items as:

- Management Plan, detailing the hours of operation, number of employees, access, deliveries, and trash pickup location and schedule
- The addition of bike racks
- Occupancy limits (both employees and patrons)
- Times for construction (no exterior construction on event weekends such as Thanksgiving, Stroll, Daffy, Memorial Day, etc and no exterior construction between June 15- September 15)
- NRTA passes to all employees

**FROM THE NOVEMBER 15, 2021 STAFF REPORT (*no discussion from this meeting, matter was continued*):**

The Applicant has submitted an updated site plan decreasing the seats on the exterior, management/operating plan, statement from an acoustics expert, and a letter responding to the detailed questions and concerns brought up at the October meeting.

**UPDATE:**

Note that Barry Rector has followed proper Mullin procedure to participate and vote on this request moving forward.

The Applicant has significantly scaled back their request and proposes to operate within the limitations of the existing Special Permit with some minor and non-substantive modifications including the following:

- Addition of handicap bathrooms
- Addition of two windows
- Addition on table-top micro distillery, brewery, and winery in the lower level kitchen (see photos in packet)
- Revision of the Operating Plan (included with the packet)
- Remove conditions 16 & 17 as they are no longer applicable.
- Modify conditions 23 & 24 to allow the 2<sup>nd</sup> and 3<sup>rd</sup> floor to be converted to a maximum of four (4) apartments provided that the Applicant provide housing of-site for at least ten (10) employees.

Included with your packet is a revised site plan, memo from the Applicant's attorney, detailing the changes to the proposal, revised floor plans and elevations, updated Operations Plan, and photos of the proposed table-top micro distillery, brewery, and winery.

It is noted that the Applicant has received all applicable licenses to operate under the previously granted Special Permit and the relief requested to the Planning Board (as amended) is minor.

Planning Staff recommends approving the Applicant's proposal as amended with the following findings and conditions:

Findings:

- 1) That the proposal as amended is in harmony with the general purpose and intent of the Bylaw since the Applicant will be in compliance with an existing Special Permit that was granted by this Board.

Conditions:

- 1) That the Applicant shall comply with the Operating Plan, which will be attached as an Exhibit to the decision;
- 2) That all employees shall be issued NRTA passes;
- 3) That conditions 16 and 17 shall be eliminated, as they are no longer applicable to the parking requirements in the CDT zoning district;
- 4) That conditions 23 and 24 shall be modified to allow for the 2<sup>nd</sup> and 3<sup>rd</sup> floors to be converted into no more than four (4) apartments and that off-site employee housing shall be provided for at least ten (10) employees; and
- 5) No exterior construction shall take place in any year from 12:00 noon the Thursday of Stroll weekend and Daffodil weekend until 7 AM on the following Monday, and from 12:00 noon on the Thursday of Memorial Day weekend until 7 AM on the following Tuesday. No exterior construction shall take place in any year from 12:00 noon on the Wednesday before Thanksgiving until 7 AM on the following Monday. There shall be no exterior construction between June 30th and September 15th in any year.
- 6) That all other conditions of the original decision shall remain in full force and effect.

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

Representation: Arthur Reade

This public hearing was not opened at the January 10, 2022 meeting. Since that meeting, the approved AR Subdivision has been filed with the Town Clerk and the appeals period has concluded, therefore making the property eligible for conversion to a Rear Lot Subdivision.

Proposed Lot 29 will contain approximately 23,044 square feet and Proposed Lot 30 will contain approximately 23,045 square feet. Both lots will have frontage and access on Bayberry Lane. The site is zoned R-20.

Planning staff recommends approval of the Applicant's request as proposed, with the following findings and conditions (conditions are consistent with the Subdivision Approval):

Findings:

- 1) That the applicant's proposal complies with the requirements for a Special Permit under §§139-8E, "Rear Lot Subdivision", as amended at the 2019 Annual Town Meeting, of the By-Law; and
- 2) That the proposal is in harmony with the general purpose and intent of the Bylaw.

Conditions:

- 1) That each lot shall be allowed two (2) dwellings each for a total of four (4) dwellings;
- 2) That the second dwelling on one of the lots will be restricted to a maximum of 650 square feet of gross floor area. A restriction enforceable by the Planning Board shall be presented to the Board, without holding a public hearing, prior to the conveyance out of common ownership;
- 3) That each lot shall comply with the ground cover ratio, front setback, and side and rear yard setback requirement of the underlying R-20 zoning district, or as otherwise specified in 139-8E;
- 4) That the filing of an ANR (Approval Not Required) plan is a necessary step to implement this Special Permit.

- **Marr Ventures LLC et al c/o Stephen P. Marr and White Plains Funding LLC c/o Ahold Financial Services, 47 & 51 Sparks Avenue and 109 Pleasant Street, action deadline 3-28-2022**

Representation: John Hession

The Applicant is proposing a thirteen (13) lot (twelve (12) buildable lot) subdivision consistent with the previous Preliminary Plan approval.

**It is noted that the intent of the subdivision is to implement a zoning freeze.**

Planning staff recommends approval of the Applicant's proposal with the following finding and conditions:

Finding:

- 1) That the Applicant's proposal is in harmony with the general purpose and intent of the *Rules and Regulations Governing the Subdivision of Land*.

Conditions:

- 1) That recorded copies of all legal documents such as (Covenant, Statement of Conditions, Grant of Right of Enforcement, Homeowners Association) shall be presented to the Planning Board within six (6) months of the filing of the decision;
- 2) That the Homeowner's Association shall be funded in the amount of \$1,000 per lot. Proof of funding shall be submitted to the Planning Board prior to the release of the final lot;



- 3) That the definitive plan shall be presented to the Planning Board within six (6) months of the filing of the decision;
- 4) That each lot shall comply with the ground cover ratio, front setback, and side and rear yard setback requirements of the underlying CMI zoning district; and
- 5) That no lot shall be eligible for release or a construction permit until the Town's consulting engineer has reviewed and approved all relevant documents submitted by the Applicant. The Applicant shall also fund an engineering escrow account at that time in the amount of \$5,000.00.

- **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*

**FROM THE JANUARY 10, 2022 STAFF REPORT:**

*Voting: John Trudel, David Iverson, Nat Lowell, Barry Rector, Fritz McClure*

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;

**UPDATE:**

At the January 10, 2022 Planning Board meeting, the Board was overall supportive of the proposal, but requested the Applicant to submit a landscape plan, a drainage plan, and improve visibility at Dolphin Court's intersection with North Beach Street prior to rendering a decision. The Applicant has submitted all these items, which are included in your packet. The drainage information was also reviewed by the Town's consulting engineer, Pesce Engineering, and his remarks are also included with your packet.

Planning staff recommends approval of the Applicant's request with the findings and conditions outlined above (from the January 10, 2022 staff report) less conditions 1 & 2, which have already been satisfied by the Applicant.

- **10 Larrabee Lane LLC, 10 Larrabee Lane, *action deadline 05-10-2022***

Representation: Dan Mulloy

The Applicant is requesting to modify an existing Special Permit for a Secondary Residential Lot to validate a side yard setback intrusion along the western portion of the property (the property line between 10 Larrabee Lane and 12 Larrabee Lane). While the Planning Board did waive the interior setback between the market rate lot and the covenant lot (eastern property line) the dwelling was constructed 5.9 feet from the western lot line, where ten (10) feet is required. The

Applicant is requesting a reduction in the setback from ten (10) feet to five (5) feet to remedy the error.

*It is noted that on its own, relief from Section 139-16 shall be granted through the ZBA. Because the property is subject to a Planning Board Special Permit, the Planning Board is the permit granting authority in this particular instance. This interpretation of the Bylaw has already been confirmed by Town Counsel.*

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

Findings:

- 1) That the burden of correcting the intrusion substantially outweighs any benefit to an abutter of eliminating the intrusion.

Conditions:

- 1) That the Applicant, at their own expense, shall remove all vegetation that has been planted on the abutting property at 12 Larrabee Lane within thirty (30) days of the filing of this decision;
- 2) That the Applicant, at their own expense, shall replace the cyprus with either columnar hedge of oak or hornbeam within six (6) months of the filing of this decision;
- 3) That Applicant, at their own expense, and subject to HDC approval, shall install a 6' board fence along the property line between 10 Larrabee Lane and 12 Larrabee Lane within six (6) months of the filing of this decision;
- 4) That there shall be no further expansion of the ground floor of the dwelling along the western property line within ten (10) feet of the side yard setback;
- 5) That there shall be no upward expansion of the existing dwelling on the western side within the ten (10') foot setback;
- 6) That all other conditions in the original decisions shall remain in full force and effect.

- **ACK Mid Island, LLC & ACK Offices, LLC, 18, 18A, 20, 22, 24 & 26 Sparks Avenue, action deadline 05-10-2022**

Representation: Dan Mulloy

The Applicant is requesting a Major Commercial Development "MCD" for a multi-use development. Included with your packet is a proposed site plan, conceptual architectural renderings, and a chart of proposed uses.

The proposal is very preliminary at this point and the Applicant may be required to make significant changes to the aesthetics of the buildings as reviewed by the HDC. A multi-department coordinated review will be scheduled after this initial hearing.

The Board should discuss with the Applicant the proposed site plan and the proposed uses on the site.

**Public Comment:**

**Other Business:**

- **Town of Nantucket 2022 ATM Warrant Articles – Planning Board Motions &**

**Comments**

- **Discussion- Town of Nantucket 2022 ATM Warrant Article 81: Home Rule Petition:  
Amend theNantucket Planning and Economic Development Commission  
Special Act**
- **Regular Planning Board meeting Monday, March 14, 2022 @ 4:00PM via Zoom**

**Adjournment:**