



**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554**

STAFF REPORT

Date: March 11, 2020

To: Zoning Board of Appeals

1 From: Eleanor W. Antonietti
Zoning Administrator

Re: March 12, 2020

I. APPROVAL OF THE MINUTES:

Pages 4 - 8

- February 12, 2020

II. OLD BUSINESS (CONTINUED PUBLIC HEARINGS AND VOTES MAY TAKEN):

- 05-20 Kristiana Kay Snyder 3 Somerset Road Williams
Action Deadline May 13, 2020

Pages 10 - 56

Applicant is seeking relief by Special Permit pursuant to Zoning By-law Section 139-16.C(2) in order to validate an unintentional setback intrusion. The “as-built” survey shows the primary dwelling sited within the required 30’ front yard setback area. A portion of the primary dwelling is as close as 23.6’ from the front yard lot line, with another portion of the porch located farther away from the front yard lot line. Applicant is seeking to validate the siting of the dwelling with the encroaching front porch. In the alternative and to the extent necessary, Applicant seeks relief by Variance pursuant to Section 139-16.A for a waiver from the front yard setback requirements. The Locus is situated at 3 Somerset Road, shown on Assessor’s Map 56 as Parcel 18.1, and as Lot 2 upon Plan Book 25, Page 42. Evidence of owner’s title is recorded in Book 1647, Page 219 on file at the Nantucket County Registry of Deeds. The site is zoned Residential 20 (R-20).

Sitting SM LB MJO GT JM At table: MP

The Applicant submitted additional materials requested at the IPH on 2/13. They are found on Pages 39-56 of the Packet.

Relief is sought specifically by Special Permit per [Section 139-16.C\(2\)](#) which reads:

The Board of Appeals may grant a special permit to validate unintentional setback intrusions not greater than five feet into a required yard and not closer than four feet from a lot line, provided that it shall first find that the burden of correcting the intrusion substantially outweighs any benefit to an abutter of eliminating the intrusion and, if the intruding structure was so sited after 1990, the siting of the structure was reasonably based upon a licensed survey.

III. NEW BUSINESS (INITIAL PUBLIC HEARINGS AND VOTES MAY BE TAKEN):

- 06-20 Ack Sconset LLC 8 Center Street Reade
Action Deadline June 10, 2020 CONFLICTS: **NONE KNOWN**

Pages 58- 84

Applicant is requesting relief by Special Permit pursuant to Zoning By-law Sections 139-30 and 139-33.A to allow installation of an air conditioning condenser unit, within a fenced area, in the northwesterly corner of the lot. The proposed siting will be no closer to the lot lines than the existing dwelling and stairs which are pre-existing nonconforming as to side and rear yard setbacks. In the alternative and to the extent necessary, applicant requests relief by Variance pursuant to Sections 139-32 for a waiver from the side and rear yard setback requirements in Section 139-16. Locus is situated at 8 Center Street, shown on Assessor’s Map 73.1.3 as Parcel 76 and as Lot 2 upon Plan File No. 04-04. Evidence of owner’s title is recorded in Book 1679, Page 35 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Old Historic (SOH).

Applicant seeks relief in order to install an enclosed HVAC unit within the pre-existing nonconforming setback, albeit no closer to the southerly lot line than the existing structure. Applicant has included HDC approval and approved plans with the application. The HDC specifically imposed a condition that the unit “must not be visible at time of inspection and in perpetuity” (See Pages 65-73).

As shown on Mortgage Plot Plan on Page 62 of the Packet, the said to be historic DU is pre-existing nonconforming as to lot size (1,442 SF in SOH where minimum lot size is 5,000 SF), as to ground cover (GCR of 61% where maximum GCR is 50%) and as to both side and the rear yard setbacks (where 5’ is required setback).

The specs on the HVAC model are on Pages 63-64.

The unit is proposed to be installed in the northwest corner, adjacent to the basement stairwell.

Relief is sought per [Section 139-33.A\(1\)](#)

Preexisting, nonconforming structures or uses may be extended, altered, or changed, provided that:

(a) The special permit granting authority finds that such extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure and/or use to the neighborhood. Where an existing structure violates a front, rear, or side yard setback distance, the special permit granting authority may issue a special permit to allow an extension, alteration, or change to the structure, provided that the nonconforming setback distance is not made more nonconforming and based upon a finding that the extension will not be substantially more detrimental to the neighborhood than the existing nonconformity.

The direct abutter submitted a letter (See Pages 82-84) in opposition to the siting, specifically requesting that the unit be installed on the southern elevation adjacent to “Pump House Square”.

There are photos of the various existing elevations (part of HDC submissions) on Page 73).

- 07-20 Andrew P. Prague and Kurt F. Somerville, Tr., Parizeau Nantucket Realty Trust
Action Deadline June 10, 2020 10 Fulling Mill Road Alger
2 Fairgrounds Road Nantucket Massachusetts 02554
508-325-7587 telephone 508-228-7298 facsimile

Pages 85 - 93

CONFLICTS: **LB**

Applicants are seeking relief by Special Permit pursuant to Zoning By-law Sections 139-30 and 139-33.A(3) & (4) to remove and reconstruct any or all of the pre-existing nonconforming structures or any portion thereof in excess of the permitted 3% ground cover ratio. Specifically, Applicants propose to demolish all or portions of existing structures to allow for new construction and/or additions with the ability to retain the pre-existing nonconforming ground cover ratio of up to 3.4%. As a result of a zoning change from LUG-1 to LUG-3, the Locus became pre-existing nonconforming as to lot area and groundcover. The new construction will be conforming as to all setback requirements for a pre-existing nonconforming lot of record. The Locus is situated at 10 Fulling Mill Road, is shown on Tax Assessor’s Map 27 as Parcel 31, and as Lot 15 upon Land Court Plan 14311-P. Evidence of owner’s title is registered on Certificate of Title No. 24639 at the Nantucket County District of the Land Court. The site is zoned Limited Use General 3 (LUG-3).

See above for relief requested pursuant to either Section 139-33.A(3) or 139-33.A(4) which read:

139-33.A(3)¹

Preexisting, nonconforming lots may be increased in area or frontage through the addition of adjoining property without the need for any relief under this bylaw. Any other alteration to a preexisting, nonconforming lot that does not increase an existing or create a new nonconformity is allowed upon determination by the Zoning Administrator that such alteration will not be substantially more detrimental to the neighborhood. Lots created pursuant to MGL c. 41, § 81P, based upon the exception in the clause of MGL c. 41, § 81L for lots containing two or more structures that predate the adoption of subdivision control in the Town, shall have the same status as preexisting, nonconforming lots, and any structures thereon, which predate the adoption of subdivision control in the Town, shall have the status of preexisting nonconforming structures. The removal of structures to facilitate an alteration or change to an existing structure, the relocation of the structure upon the lot, or the construction of a new structure, shall not cause the lot to be merged with an abutting lot in common ownership, provided that the lot remains vacant for less than one year.

139-33.A(4)

Removal and reconstruction of any or all of the preexisting nonconforming structure(s), or any portion(s) thereof, in excess of the permitted ground cover ratio upon a lot, shall be allowed by special permit, provided that:

- (a) Such special permit shall have been issued prior to the removal of the preexisting nonconforming structure(s), or any portion(s) thereof;*
- (b) (Reserved)*
- (c) All reconstructed structure(s), or portion(s) thereof, shall conform to all applicable front, rear and side yard setback requirements; unless relief is granted under separate provisions of this chapter; and*
- (d) The special permit granting authority shall have made the finding that the result of the proposed removal and reconstruction shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure and/or use.*

Addendum on Page 88 explains zoning and building history of Locus. The property was originally LUG-1 where maximum GCR is 7%, and when so zoned, it met the intensity regulations of LUG-1. It was rezoned in 1990 to LUG-3 where only 3% GCR s allowed, thus rendering the locus pre-existing nonconforming as to lot size and ground cover.

¹ Applicants own the adjacent property known as 24 Fulling Mill Road and shown as Map 57, Parcel 21 and as Lot 56 upon Land Court Plan 14311-10. This lot directly abuts the Locus to the north and is shown to have a LUG-3 compliant lot area of 131,670 SF upon a 2017 As-Built Plot Plan in the Building Dept. file.

Staff Report as of March 11, 2020

Existing conditions are shown on As-Built Plot Plan on Page 90 of Packet. The premises are currently improved with a primary DU with attached garage, a 133 SF shed, and an asphalt tennis court. The shed appears to be ‘attached’ to the DU via a “fenced in boardwalk”.

		LOT AREA	Ground Cover	Existing GCR	3% GCR per LUG-3	7% GCR per LUG -1
➤	Lot 15@LCP 14311-P	79,709 SF	2,748 SF	3.45%	2,391 SF	5,580 SF
➤	Lot 15 + 50’ ‘private’ Way	92,081 SF	2,748 SF	2.9%	2,762 SF	6,445 SF

Before the zoning change from LUG-1 to LUG-3 and the expiration of the protected 7% GCR (circa January 2000), the lot was permitted 7% GCR. Therefore, the Locus is pre-existing nonconforming as to lot size and ground cover. Applicant is seeking approval to retain this ground cover in order to remove and reconstruct any or all of the structures or any portion thereof in excess of the permitted ground cover ratio. The new or renovated structures will “conform to all applicable front, rear, and side yard setback requirements for a pre-existing nonconforming lot of record.

139-33.E(2)(a)

In the LUG-2 and LUG-3 Zoning Districts, the side and rear yard setbacks shall be 10 feet; and

Staff has received no abutter comments about this request.

IV. OTHER BUSINESS (Votes may be taken)

4

- 051-03 Rugged Scott a/k/a Beach Plum 40B Holland / Posner / Haverty

CONTINUED TO APRIL 9, 2020

DISCUSSION of implementing policy in fulfillment of obligation to allow abutting property owners non-resident family membership privileges and access to the common amenities (Clubhouse/Pool/Lawn/Tennis Court Facility) in Beach Plum Village, as per provisions in Section 3.2(o) regarding Management Issues in the original Comprehensive Permit and Section 9 of the “Settlement Agreement”.

Pages 95 - END

V. ADJOURNMENT (VOTE WILL BE TAKEN)