I. APPROVAL OF THE MINUTES:

- February 13, 2020
- March 14, 2020

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

- 06-20 Ack Sconset LLC 8 Center Street Reade

REQUEST TO WITHDRAW WITHOUT PREJUDICE

Sitting: SM LB ET KK GT

At Table: MP JM
III. NEW BUSINESS  (INITIAL PUBLIC HEARINGS AND VOTES MAY BE TAKEN):

- 08-20 Nantucket Westmoor Farms, LLC (Appellant)  6 & 8 Old Westmoor Farm Rd.  Swain

REQUEST TO CONTINUE WITHOUT OPENING UNTIL AUGUST 13, 2020

Appellant brings an appeal, pursuant to M.G.L. c.40A, Sections 8 & 15 and Zoning By-laws Sections 139-29.E and 139-31, of a decision by the Building Commissioner to issue a Cease and Desist Order alleging zoning violations. Appellant requests that the Zoning Board of Appeals reverse the Order and render a decision that the Appellant’s use of the property is in compliance with the Zoning By-law and consistent with the Planning Board’s July 2016 decision that special event uses on the property are not commercial in nature. Locus is situated at 6 & 8 Old Westmoor Farm Road, shown on Assessor’s Map 41 as Parcels 821 & 822, as Lot 22 upon Land Court Plan 13328-M and Lot 35 upon LCP 13328-N. Evidence of owner’s title is registered on Certificate of Title No. 21835 at the Nantucket County District of the Land Court. The site is zoned Residential Twenty (R-20).

- 09-20 Timothy E. Quinlisk & Elizabeth A. Quinlisk  88 Quidnet Road  Alger

Action Deadline August 12, 2020  CONFLICTS: LB ET

Applicants are seeking Special Permit relief pursuant to Zoning By-law Sections 139-30 and 139-33.A(1) to alter, extend, and change a structure, which is pre-existing nonconforming as to side yard setbacks, situated on a lot which is pre-existing nonconforming as to lot size and frontage. As proposed, the pre-existing nonconforming setback distances will not be made more nonconforming. The Locus is situated at 88 Quidnet Road, is shown on Assessor’s Map 21 as Parcels 109, 104, & 70, as Lots 5 & 6 upon Land Court Plan 8606-A and Lot 33 upon LCP 8606-B. Evidence of owner’s title is registered on Certificate of Title No. 26998 at the Nantucket County District of the Land Court. The site is zoned Residential Twenty (R-20). Special Permit relief is being sought to alter the pre-existing nonconforming dwelling on a pre-existing nonconforming lot. As shown on the Existing Conditions plan on Pages 26 & 27 of the Packet, the lot contains 7,858 SF in R-20 where minimum lot size is 20,000 SF. The lot has frontage of 66’ where minimum frontage is 75’. The existing DU is nonconforming as to both side yard setbacks, being sited as close as 4.83’ from the southerly lot line and 4.07’ from the northerly lot line where minimum side setbacks are 10’. There is a 44 SF shed sited as close as 3.83’ from the southerly lot line which is proposed to be removed. The DU has a ground cover of 1,221 SF for a GCR of 15.5% where the greater of 1,500 SF or 12.5% GCR is allowed per Section 139-33.E(1)(b). The CORRECT PROPOSED CONDITIONS PLAN is on Page 29 of the packet. PLEASE DISREGARD AN EARLIER ITERATION which was inadvertently included in the packet on Page 28.

The Applicant proposes to do a partial demolition, renovation, reconstruction, relocation, and expansion of a circa 1900 (possibly older) building. The existing shed will be removed. The proposed DU will contain 1,495 SF and be sited no closer than 5.2’ from the southerly lot line and 5.5’ from the northerly lot line, thus further from the lot lines than the existing structure, albeit within the 10’ side setback areas. Architectural Plans are found on Pages 30-36 of the Packet.

Applicant has submitted some additional materials relevant to the historic status of the DU which is INCLUDED AT THE END OF THIS STAFF REPORT.
Relief would be granted per Section 139-33.A which reads:

(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.

No comments in support or opposition were received from Abutters.

Staff recommends approval with a condition that no further expansion or alteration be allowed within the setback area without further relief from the Board.
was built by Peter and Allison MacKay in 1986. The 709 SF secondary DU was built by David MacKay & Anne Phaneuf in 1989. The 1989 Variance granted relief from the then required 12’ front to rear spacing between the two dwellings. Required Scalar separation is now a linear 10’.

Since construction, each DU has served as the principal residence for each couple and their children. In a sense, they have not been treated as primary and secondary dwellings but rather as separate structures on separate lots with separate driveways, this latter a condition which precedes the change in the bylaw prohibiting a second driveway in 1998.

Section 139-20.1(B)(1) Driveway access.
No more than one driveway access shall be allowed on a lot. However, the Planning Board may grant a waiver to allow two or more driveway accesses in accordance with § 139-20.1C.

Applicants state that maintaining the current conditions has become a burden creating “unintended consequences, and financial hardship” and are therefore seeking a remedy to separate their properties for estate planning and various practical purposes.
Applicants propose subdivision of the property into two nonconforming lots of roughly equal lot area (21,250 SF), each containing a single DU. The Applicants further propose to permanently restrict each lot to one DU with no additional ground cover beyond what would currently be allowed by right. In the alternative, the Applicants propose creation of a 2-unit condominium or cooperative.

Subsequent to posting the packet, Applicant submitted 1) a previously granted decision with comparable relief. See Variance Decision No. 30-10, and 2) additional letters of support from Abutters. Both are included at the end of this Staff Report.
Relief would be granted per Section 139-33.A which reads:

(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.

Relief is also sought in the alternative and to the extent necessary by Variance.

VARIANCE CRITERIA
The decision would have to meet the threshold (established by MGL 40.A § 10 and locally per Section 139-32.A) which requires that the Board:

[…] specifically finds that owing to circumstances relating to soil conditions, shape or topography of such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this chapter would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such bylaw.

12-20 Anne Maletta 15 Broadway Fader
Action Deadline August 12, 2020
NO KNOWN CONFLICTS
Applicant is requesting relief by Special Permit pursuant to Zoning By-law Sections 139-30 and 139-33.A(1)(a) to allow alteration of the pre-existing nonconforming structure by adding an air-conditioning (“HVAC”) unit along the southerly side elevation of the structure. The proposed siting will be no closer to the lot line than the existing dwelling which is pre-existing nonconforming
as to setbacks. In the alternative and to the extent necessary, applicant requests relief by Variance pursuant to Section 139-32 for a waiver from the side yard setback requirements in Section 139-16. Locus is situated at 15 Broadway, shown on Assessor’s Map 73.1.3 as Parcel 113 and upon Plan No. 2015-78. Evidence of owner’s title is recorded in Book 1506, Page 89 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Residential One (SR-1).

The Applicant proposes to alter the pre-existing nonconforming dwelling by adding an air-conditioning (“HVAC”) unit along the southerly side elevation of the structure. The HVAC unit will be no closer to the southerly lot line than the existing structure as a result of the proposed installation. The applicant proposes other additions and alterations to the structure which do not require relief. The proposed alterations have been granted Historic District Commission approval by virtue of Certificate of Appropriateness No. HDC 2019-10-0075.

As shown on the Existing Conditions Plan on Page 70 of the Packet, Locus is pre-existing nonconforming as to lot size and frontage. This undersized lot of record contains 1,610 SF in SR-1 where minimum lot size is 5,000 SF. The lot has triple frontage of less than the required 50’ on the lot line abutting Broadway (35.38’) to the northwest, the lot line abutting an unnamed variable width Way (45.02’) to the northeast, and the lot line abutting Front Street (36.69’) to the southeast. The Locus is also pre-existing, nonconforming as to parking, providing no parking spaces where one is required.

The historic dwelling, known as “The House of Lords”, said to have been built circa the mid-1700s, is a validly pre-existing, nonconforming structure as to setbacks and as to ground cover. The structure intrudes into the setbacks on the northeast, southeast, and southwest. Pursuant to Section 139-16.C(3), for lots abutting two or more streets or ways in the SR-1 district, the required 10’ front yard setback shall be maintained from any other street or way, whether constructed or not. The structure has a ground cover of approximately 796 SF for a ground cover ratio of 49.4% where maximum ground cover allowed is 30% (483 SF).

As shown on the Proposed Conditions Plan on Page 71 of the Packet, the proposed HVAC unit will be no closer to the southerly side yard lot line than the existing dwelling, and, as such, will not increase the nonconforming nature of the Dwelling or create any new nonconformities. The direct abutter and owner of 13 Broadway, who is most likely to be impacted by the proposed siting of the HVAC unit, submitted a letter of support for the proposed location of the unit Page 81 of the Packet. Another abutter who lives across the street submitted an email expressing concern regarding noise pollution on Page 82 of the Packet. The Applicant’s representative has responded to this particular concern in a subsequent email which is INCLUDED AT THE END OF THIS STAFF REPORT.

Relief would be granted per Section 139-33.A which reads:

(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.
IV. OTHER BUSINESS (Votes may be taken)

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

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".

TOWN OF NANTUCKET ZONING BOARD OF APPEALS - FILE NO. 051-03
DECISION ON APPLICATION OF RUGGED SCOTT LLC AS MODIFIED PURSUANT TO THE "AGREEMENT AND STIPULATION FOR ENTRY OF JUDGMENT" IN HOUSING APPEALS COMMITTEE DOCKET NO. 04-13

COMPREHENSIVE PERMIT
FOR THE RUGGED SCOTT LLC DEVELOPMENT

15, 19 Rugged Road and 6, 8 Scott's Way (aka Scotts Way)

3.2 (o) The clubhouse/pool/lawn/tennis court facility shown on the plans shall be available only to those residents of the site and their accompanied guests for personal use. The facility shall not be open to the public. The clubhouse may not function as a restaurant or bar as these terms are defined in the Nantucket Zoning Code. Use of the facility for functions with food and/or alcohol service may be allowed as an accessory use subject to all Zoning and other regulatory requirements. Memberships shall be provided to all residents on a fee schedule to be adopted by the Association provided, however, that any fee for an affordable unit is factored into the 30% maximum housing expense calculation. The Association shall establish hours of operation for the facility and guidelines for occupancy, noise, and lighting that preserve the rights of nearby residents to quiet enjoyment of their property, which shall be subject to final ZBA approval. Notwithstanding the above resident restriction, abutting property owners as shown on a map attached hereto as Exhibit D shall be allowed access to the facility subject to a comparable fee structure and in accordance with rules and regulations established by the Association. A minimum of ten (10) non-resident family memberships shall be offered and a maximum of 30 non-resident family memberships may be allowed by vote of the Association.

SETTLEMENT AGREEMENT
Now come the parties in the case of Lisa P. Dias. et al. Plaintiffs. v. Town of Nantucket Zoning Board of Appeals. et al, Nantucket Superior Court Docket No. 04-15 ("the Superior Court case") and the case of Rugged Scott. LLC v. Nantucket Zoning Board of Appeals, Housing Appeals Committee Docket No. 04-13 ("the HAC case", and hereby agree that this Settlement Agreement settles all matters in dispute between the parties related to the property located at Rugged Road and Scotts Way, Nantucket, MA (hereinafter "the Property") and that this Settlement Agreement shall be enforceable as set forth below between the parties, and be forever binding upon the parties, their heirs,
successors and assigns; the parties further acknowledge that they have been fully represented by counsel and informed of their rights, and that they have voluntarily entered into this Settlement Agreement. The parties hereby agree as follows:

9. Clubhouse/Pool/Tennis Courts Facility: The Decision clearly states allowable and prohibited uses and further establishes a procedure under which Rugged Scott and the Homeowners' Association must establish hours of operation for the facility, and guidelines for occupancy, noise, and lighting that preserve the rights of nearby residents to quiet enjoyment of their property, which shall be subject to final Board approval. Rugged Scott agrees to impose a requirement that the tennis and pool facilities will be closed no later than 7 PM and will operate only between May 1 and October 31 in any given year. **Rugged Scott also agrees to comply with Condition 3.2 (o) of the Decision and in addition will present and discuss with a representative group of abutters its proposed guidelines on these matters before submitting them to the Board for approval.**

This item has been intermittently on the Agenda since August 2019 with various lacuna due to ongoing attempts by interested parties to negotiate a mutually satisfactory solution. They are back before the Board to again seek input and guidance. This is not a public hearing but rather a discussion of how to resolve a contentious issue which has, at times, reached an impasse. It is clear that all parties desire an amicable resolution but have had difficulty agreeing upon the terms. There has been a recent flurry of **exchanges & proposals between the parties.** These are on **Pages 86 – 119 of the packet, organized from oldest to most recent (in the order in which they were received).**

There is an updated Tracking of lots sold by Rugged Scott LLC on **Pages 229 – 234 of the packet.**

STAFF received numerous **additional comments from involved parties and residents of Beach Plum Village** by email after posting the Packet. These are **INCLUDED AT THE END OF THIS STAFF REPORT.**

V. **ADJOURNMENT** (VOTE WILL BE TAKEN)
Supplemental Materials
Submitted by applicant
ON 5/12/20

QUINLISK

88 Quidnet Rd.

File No. 09-20
The next significant period for Quidnet is 1900 to 1910, when about twelve structures were built. This includes the years when commercial fishing declined and summer people started moving in. Six of these houses were built on Sesachacha Road. Three, 11, 28, and 30, are very close to the pond. Two, 18 (now 61 Quidnet Road) and 24, are set back and up on the hill. All have porches, some very modest and others running across the front and wrapping around one side. The other six houses, along Quidnet Road, are much larger, but again, they are vernacular structures. Most have additions made over the years, usually with little regard to outward appearances. Most (84, 86, 88, and 94 Quidnet Road) overlook the ocean. Almost all the houses from this period are part of the old Norcross farm, later platted for resort lots, and these four predate the development Norcross envisioned.

The owners of 86 Quidnet Road believe that part of their house was a barn that (as Mr. Arthur Norcross remembered) was floated over from north of the lighthouse. The owner of 88 believes it was an old farmhouse, possibly one of the Norcross houses. Number 90, also dating from this period, was demolished and replaced with a new structure in 1988. The house at 94 Quidnet Road is the only one with any semblance of style, including a wrap-around porch, dormers, and clipped eaves. Dating from 1909, it shows influences from the Arts and Crafts movement then sweeping the mainland. The additions to this house are modest and do not dominate the main structure.

During the 1920s, two houses were built, a very modest one at 50 Quidnet Road, and another at 102 Quidnet Road that has been extensively modified. The house at number 50 is small and low to the ground and has no ornamentation but a few additions at the back and on one side. The addition to the side is one room, with windows running along all three elevations, perhaps reflecting use of the house in the summer, when the inhabitants were not concerned with cold and wanted to take advantage of sun and breezes. The house at number 102 is believed to have originated as a Sears, Roebuck house, and, if so, it is the only known Sears house surviving on Nantucket. Although the house has been enlarged over the years, it retains a single façade—the one overlooking the ocean—bearing some resemblance to the original Sears house. According to the owner, the house formerly situated next door (owned by a Mrs. Studwell and demolished many years ago) was also a Sears house. The architectural integrity of number 102 may not stand the test; but that there were Sears houses constructed on Nantucket is a significant reflection of mainland architecture and how its fashions traveled to Nantucket. There is one Sears building on Tuckernuck, but no others are known on Nantucket itself. 102 Quidnet Road could, thus, be one of a kind.

This Sears house in Quidnet ties Nantucket to what is referred to as the bungalow period in the architectural history of the American mainland. Gustav Stickley, furniture designer and publisher of the magazine *Craftsman Movement*, described the bungalow as a house "reduced to its simplest form," a form that "harmonizes with the surrounding landscape." The bungalow house was popular because it could fit into any area of the country, could be built by local builders with local materials, and was based on a simple design with little ornamentation. Realizing the commercial value of this kind of house, Sears, Roebuck offered several bungalow designs in its catalog. Sears bungalow kits were shipped all over the country, from pre-cut lumber and nails to doors and windows.

There are many Sears houses elsewhere in New England, including a large group along the coast near Bar Harbor. There are other examples on such historic properties as Montpelier, in Virginia, the former
IDENTIFICATION

1. Street Name & No.: 88 QUIDNET ROAD

2. Building Name: N/A

3. Ownership: Private

4. Present Owner: DERRY/LUNT

5. Ownership History:
   Built for Rickerson.

6. Use: Original: Dwelling  Present: Dwelling
   Seasonal/Year-Round: Seasonal

7. Accessibility to Public: Visible from Public Road? Yes
   Interior: N/A

8. MAP -- 3X2"
GENERAL SETTING AND ORIENTATION OF BUILDING

10. Lot Size: N/A
11. Approximate Frontage (ft.): N/A
12. Setback from Street (ft.): 40 feet
13. Orientation to Street Address: Ridge Parallel
15. Related Outbuildings and Property: Q2-23
16. Other Notable Features:
   N/A

DESCRIPTION

17. Foundation: Unknown
18. Structural System: Woodframe
19. Exterior Wall Material, Front Facade: Shingles-Weathered
20. Exterior Wall Material, Side Elevations: Shingles-Weathered
21. Exterior Wall Material, Rear Elevation: Shingles-Weathered
22. Number of Stories: 1
23. Roof Shape: Gable
24. Roofing Material: Composition Shingle
25. Roof Features: N/A
26. Dormer Roof(s): Shed
27. Chimney Material: Brick-unpainted
28. Chimney Position: Off Center
29. Number of Chimneys: 2
30. Chimney Features: Corbelling
31. Front/Primary Door Location: Off Center
32. Front/Primary Door Frame Features: Flush Frame
33. Number of Bays: N/A
34. Window Frame Type: Flush
35. Window Sash Type(s) - Front Facade: 1/1

36. Porch: Front
37. Signage: N/A
38. Details: Corner boards—plain
39. Condition: Good
40. Integrity: N/A
41. Alterations:
Originally south of cut on the beach, moved in 1920 to present location.
SIGNIFICANCE

42. Role the Building Plays: National Register: Contributing
43. Date of Initial Construction: Circa 1900
   Source: Alan Norcross
   Architect: Unknown    Builder: Unknown
44. Building Type: Box
45. Architectural Style: N/A
46. Historical and Architectural Importance: Unknown

47. Sources: N/A
House in Quidnet on the ocean bluff, at 88 Quidnet Road. The...

1900s, 1910s (circa), 1920s (circa)
1900s, 1910s (circa)
Additional materials & letters of Abutter Support
Submitted by applicant ON 5/12/20

MacKay & Phaneuf

21 & 25 Monohansett Rd.

File No. 11-20
TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MASSACHUSETTS 02554

Date: May 27, 2010

To: Parties in Interest and Others concerned with the Decision of The BOARD OF APPEALS in the Application of the following:

Application No: 030-10
Owner/Applicant: Joseph A. Demby and Jill H. Araujo Demby

Enclosed is the Decision of the BOARD OF APPEALS which has this day been filed with the office of the Nantucket Town Clerk.

An Appeal from this Decision may be taken pursuant to Section 17 of Chapter 40A, Massachusetts General Laws.

Any action appealing the Decision must be brought by filing a complaint in Land Court within TWENTY (20) days after this day's date. Notice of the action with a copy of the complaint and certified copy of the Decision must be given to the Town Clerk so as to be received within such TWENTY (20) days.

Michael J. O’Mara, Chairman

cc: Town Clerk
Planning Board
Building Commissioner/Zoning Enforcement Officer

PLEASE NOTE: MOST SPECIAL PERMITS AND VARIANCES HAVE A TIME LIMIT AND WILL EXPIRE IF NOT ACTED UPON ACCORDING TO NANTUCKET ZONING BY-LAW SECTION 139-30 (SPECIAL PERMITS); SECTION 139-32 (VARIANCES). ANY QUESTIONS, PLEASE CALL THE NANTUCKET ZONING BOARD OF APPEALS OFFICE AT 508-228-7215.
DECISION:

1. At a public hearing of the Nantucket Zoning Board of Appeals, on Thursday, May 13, 2010, at 1:00 P.M., at 2 Fairgrounds Road, Nantucket, Massachusetts, the Board made the following decision on the application of JOSEPH A. DEMBY and JILL H. ARAUJO DEMBY, c/o Reade, Gullicksen, Hanley & Gifford, LLP, Post Office Box 2669, Nantucket, Massachusetts 02584, File No. 030-10:

2. The applicants wish to divide their existing lot containing a primary dwelling and a secondary dwelling into two lots, each of which would contain one of the dwellings. The locus is situated in the Residential-10 zoning district, in which the minimum lot area is 10,000 square feet. Although the lot’s dimensions are 100’ x 200’, it is in the shape of a parallelogram rather than a rectangle, and as a result the lot area is about 18,209 square feet. At present, the primary dwelling receives its access by a driveway entrance from Hooper Farm Road, while the secondary dwelling’s access is by a driveway from Hull Lane, which runs parallel to Hooper Farm Road. This arrangement preexists, and is nonconforming with, the present limitation of each lot to a single driveway access under Nantucket Zoning By-law §139-20.1. The applicants propose to divide their property into two lots, one of which would front on Hooper Farm Road and contain the primary dwelling, would be 10,000 square feet in area and would conform to all dimensional zoning requirements, and the other of which would contain about 8,209 square feet and the secondary dwelling; it would thus be nonconforming in lot area, and also would be nonconforming as to front yard setback, being
sited about 11.5 feet from Hull Lane at the closest point, with minimum front yard setback in this district being 20 feet. The present conditions upon the locus, and the approximate lines of proposed division, are shown upon a sketch plan attached hereto as Exhibit A, which shows the Hooper Farm Road lot as Lot 1 and the Hull Lane lot as Lot 2. The applicants accordingly request relief from By-law §139-16.A (Intensity Regulations: Lot Area and Front Yard Setback) with regard to Lot 2 in order to divide the property as proposed. The locus is situated at 40 Hooper Farm Road, Assessor's Parcel 67-272, is shown upon plan recorded with Nantucket Deeds in Plan Book 15, Page 95, and is situated in a Residential-10 zoning district.

3. Our decision is based upon the application and accompanying materials, and representations and testimony received at our public hearing. There was no Planning Board recommendation, on the basis that no matters of planning concern were presented. The applicants' counsel read fourteen letters from neighbors in support of the application into the record; no opposition was presented at the public hearing.

4. The Board of Appeals is mindful of the rigorous standards for the granting of variances under applicable law, and recognizes that variances are to be "sparingly granted". The applicants represented that they were motivated to seek relief by their pending divorce proceedings, but acknowledged that this was not in itself a basis for the granting of variance relief. In the absence of any basis for the statutory findings that are necessary to support variance relief, the Board of Appeals would be powerless to grant such relief. However, the applicants argued that in the present case facts were presented that would justify the grant of relief. Specifically, they suggested that the shape of the locus, being a parallelogram, meets the requirement that a variance be based upon soil conditions, shape or topography which distinguishes it from other lots in the same zoning district; that the division of the locus into two lots would eliminate a zoning nonconformity because each of the resultant lots would have a single driveway, and thus that the requested relief would not derogate from the purpose and intent of the Zoning By-law; that the strong expression of support from neighbors, with the absence of opposition, demonstrates the desirability of the relief to be granted; and that the financial hardship of having the locus as a single lot, rather than two lots, is evident.

5. On the basis of this presentation, a majority consisting of four of the members sitting (Waine, Koseatac, Botticelli and McCarthy), with one (Toole) opposed, voted to make the finding that the proposed relief, for the reasons advanced by the applicants as set forth above, that owing to circumstances
relating to the shape of the locus and the structures thereon, and especially affecting the locus but not generally affecting lots in the same zoning district, a literal application of the provisions of the By-law would result in a substantial financial hardship to the applicants, and that desirable relief may be granted as requested by the applicants without derogating from the purpose and intent of the By-law; and accordingly to grant the requested relief by Variance from lot area and front yard setback for the lot to be created approximately as shown as Lot 2 on Exhibit A; subject to the following conditions:

(a) No additional ground cover shall be placed upon either of the lots to be created by the division of the locus without further relief from this Board; and

(b) No secondary dwellings shall be permitted upon either of such lots.

SIGNATURE PAGE TO FOLLOW
On this 2 day of June, 2010, before me, the undersigned Notary Public, personally appeared Kerim Kosicata, who is personally known to me, and who is the person whose name is signed on the preceding or attached document, and who acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public: Venessa R. Moore
My commission expires: March 22, 2013
To the Zoning Board

As direct abutters to Anne and David, Allison and Peter for the last 7 years we are writing to give our full support and backing in their request to divide their property for estate purposes.

The change will not affect any of the neighbors or abutters but it will help the MacKay family greatly so we hope you approve the request.

Best,

Adam Ross

Date

Emma Ross

Date
May 10, 2020

Dear Zoning Board of Appeals,

I received a notice of the public hearing scheduled for May 14, 2020 for File No. 11-20 in reference to an application for Special Permit relief for Peter and Alison MacKay and David Mackay and Anne Phaneuf at 21 and 25 Monohansett Rd.

I live at 3 Webster Rd, which is across the street from the property of the proposed subdivision.

I would like to express my support for this family to subdivide their property for their estate planning or other personal reasons.

If you have any further questions please contact me at 508-228-3952 or my email lbaker@jordanrealestate.com.

Thank you

Sincerely,

Leanne Baker
Applicant response to Abutter concern

Maletta

15 Broadway

File No. 12-20
Dear Kathy and Joseph,

As the Preservation Architect for Anne Maletta, I have been asked by Anne to respond to your concerns about the HVAC condenser. We appreciate and share your concerns for the potential for noise in the neighborhood. We also assure you that the condenser unit has been carefully chosen as one of the quietest, both for Anne’s neighbors like yourselves as well as for Anne.

The condenser will be located on the south side of Anne’s house behind a fence and an outdoor shower. I am attaching a site plan to better explain the location. It will not be visible from the street. With the shower and the fence there will be an additional containment of any sound. We understand, however, that there will not be any sound making its way even to the street.

As far as distance you’ll be glad to know that the condenser unit is more than 12 feet from Anne’s easternmost property line and more than 26 feet from your home across the way on Front Street. You’ll also be glad to know that Anne’s closest neighbor, Lisa Soeder, has given Anne and the Zoning Board, a Letter of Support for the HVAC condenser unit.

I hope this allays your concerns. It is important that Anne has your support going forward and is able to build on the strong neighborhood community.

Sincerely,

Marsha

Marsha L. Fader, AIA Architect, LEED AP
36 Liberty Street
Nantucket, MA 02554

marsha@mfader.com
508.228.1683
RUGGED SCOTT
BEACH PLUM VILLAGE

051-03

ADDITIONAL CORRESPONDENCE RECEIVED
AFTER PACKET POSTING
Today I became aware of a letter written to the ZBA by Tucker Holland on Saturday regarding the use of Beach Plum amenities by owners of abutting properties. I have a different understanding of many of Mr. Holland’s points.

- I was present at the meeting at the Nantucket Yacht Club last fall. That meeting was an introductory meeting only and there were no agreements of any kind made at that meeting.
- Mr. Holland wants a reduction in fees because renters will not be able to use the amenities. Some people in BPV rent their homes and most do not. Beginning in 2020 those who rent will pay a fee to the HOA for each of those rentals. There are also restrictions placed on those rentals. There is no discount of fee given to those who do not rent their homes.
- In 2017, in preparation for the eventual turnover of the HOA from the developer to the residents, a consultant was hired to assist with preparation. Homeowners were asked for a contribution of $300 to fund an account for this purpose. This is completely outside of the HOA fees.
- Based on the cost of the amenities of BPV, each market priced owner paid approximately $30,000 toward the construction of those amenities. Mr. Holland states we originally asked for an initiation fee of $30,000 to deter membership. We asked for that sum because that is what we paid.
- BPV has reduced that fee dramatically to $5,000 in attempt to come to agreement with the abutters.
- Mr. Holland has agreed that 83% of the HOA fee is attributed to the maintenance and operation of the amenities.
- All abutter properties are considered market priced properties. In BPV there are 10 affordable homes and those owners pay a highly discounted HOA fee. Mr. Holland wants to consider those discounted rates when establishing the rates for abutters. There is no justification for this.
- Abuters will not be charged for subdivision costs that are unrelated to amenities. But they should not pay a rate that is discounted from that paid by any of the BPV homeowners. Abuters who choose to pay for use of our amenities can be expected to have a high rate of usage and they must pay their share.
- Abutter membership to BPV does not provide membership the to the BPV HOA. The HOA alone will be responsible for setting a budget. It will be desirable for the HOA to plan for future expenses and provide contingency funds beyond what has been done by the developer.

Ruth Plandowski
10 Thistle Way
Nantucket, MA 02554
Hi Eleanor,

Yes - thank you and the ZBA for all your work on this issue. It is too bad the non-resident aspect of the comprehensive permit could not have been addressed by the developer as head of the HOA at any point during the last 14 years since the comprehensive permit was issued, and regrettably this program must now be addressed and established during a global pandemic.

In short, there is nothing really surprising in Josh's posturing below, certainly nothing that bears spending a great deal of time on. We think the developer's actions to date largely speak for themselves. Some of the assertions contradict statements by his own buyers, and other's defy logic. Happy to address these on Thursday, if it helpful.

We do appreciate the developer's stated regret for his having created a contentious process, particularly when it need not have been so.

We look forward to being a part of Thursday's discussion.

Tucker Holland
Peter McEachern
Bert Turner
Chris Young

PS One thing of note perhaps for the ZBA. We are confused by the statement of the developer's that he only has one home left to sell. According to the ZBA's letter of last summer, there were two or three homes left to sell and the instruction from the ZBA was no certificates of occupancy were to be issued until this matter was resolved. Was a CO issued following the ZBA's explicit instructions?

On Mon, May 11, 2020 at 3:07 PM Josh Posner <jposner@risingtidellc.net> wrote:

Eleanor-

Thank you for all of your work on this issue.

I received a copy of an email dated May 9, 2020 to you from Tucker and the Seikennow group. I am hoping we can get to a resolution of this issue and so I don’t want to extend the debate. However, I do want to correct a few misconceptions.

1. I know Tucker keeps saying over and over that I have been delinquent in not setting up the neighbor amenity program. I don’t believe there is anything in the permit condition that says that this should have been set up earlier, and as I have said to many people over the past 10 years, I have always considered this issue as something that we would address as we approached the completion of the project. This condition was in the documents referenced and reviewed by each owner and their attorney prior to closing. There was no attempt to hide or surprise anyone. I believe a few buyers
TO: Eleanor Antonietti and Members of the ZBA

I think Tucker and I agree on one thing — the task at hand is to move forward and reach a fair settlement re: our neighbors’ obligations to the BP community. Nonetheless, additional inaccuracies in his latest email (May 11 @ 4 pm) must be addressed:

1. The $300 fee was never proposed by Tucker until his email of this past Saturday just as my $5,000 was not previously raised. When we could not settle our dispute, we agreed that “All bets are off.” Indeed, the $1,500 fee I suggested was premised on his acceptance of 83% of the highest assessed home and I reiterate that Tucker agreed to this figure.

2. Tucker says he “disagrees” with my math but offers no more accurate one. When he compares my math to alleged disparities in benefits in amenities use he is acknowledging its accuracy.

Mercifully, I will write nothing further even if Tucker responds to this email. I look forward to Thursday.

Best,

Howard Edelman

cc: Tucker Holland
    Josh Posner
    Ruth Pladowski
Hi Eleanor and members of the ZBA,

I am only partly joking when I say, I hope you are receiving combat pay for having to deal with all the, well, nonsense around Beach Plum Village.

Beyond the painful trod to establish a non-resident membership program consistent with the comprehensive permit and the settlement agreement the developer freely entered into, we know you have also been dealing with the so-called “illegal garages” thrust on the affordable owners and perhaps other issues as well.

We are sorry we have been forced to add to your plate.

Regarding Howard’s note of today, we will simply note the following.

1. We do completely agree the task at hand is to arrive at a fair program consistent with the comprehensive permit and settlement agreement that a reasonable woman or man could endorse.

2. Honestly, Howard should be able to recount for the board that when he brought up 83%, that Chris and Tucker (both were on the call) made a point of articulating we agree with the $156k community expenses, as we have noted several times in our correspondence, which was not the same things as agreeing with 83% of the highest rate a BPV owner pays. To further illustrate our point, Howard furnished a proposal in March asking us to sign and we did not. We cannot think of a clear indication we were not accepting what Howard proposed.

3. Howard continues to insist that non-residents, with proposed greater restrictions on their memberships, pay more than some market rate BPV owners. As Howard will recall, we noted in our discussions that BPV clearly has an internal system for determining rates for the different owners. Perhaps this is by bedroom count for the market rate homes. We have posited why can basing on the same system not be used for the non-resident homes that join if basing on an average rate is unacceptable to Howard?

4. Howard insists that non-residents should pay full price for the common amenities, but have material limitations on rights. We’ll simply say we disagree. We will speak to this on Thursday.

5. Our math is very well laid out in the spreadsheets previously provided and included in the packet. If Howard is asking what we would like, it illustrates that we could be comfortable with a one-time $300 administration fee and, depending on the number of non-residents that join, an annual dues rate somewhere between $3,180 and $3,912 for this season.

Ruth Plandowski has not been involved in the discussions we have had with Howard since, we believe, last fall, so we don’t see merit in taking time to address the misstatements in her note to the board. We only recently became aware of her assertions as, while she copied approximately 40 people on her recent e-mail to the ZBA, she failed to copy the neighbors.
We are certainly hoping the ZBA can help resolve the impasse in a fair and reasonable way at this meeting. If this cannot be solved at this meeting, we would request that the public hearing be reopened at the ZBA’s first opportunity to address the failure to comply with the permit condition. Please advise what we would need to do in that case.

We also remain concerned that it would appear by the developer’s own accounting in his recent memo that a Beach Plum Village market rate home recently received a CO despite the ZBA’s clear instructions that no CO’s were to be issued until this matter, and perhaps the garage matter as well, were resolved.

With continued appreciation,

Tucker Holland  
Peter McEachern  
Bert Turner  
Chris Young

m: Town Administration Building, 16 Broad Street -- Office 111, Nantucket, MA 02554  
e: tholland@nantucket-ma.gov  
p: 508-325-7587 ext. 7023  
c: 802-233-3177

From: Howard Edelman <hcearb@gmail.com>  
Sent: Tuesday, May 12, 2020 12:56 PM  
To: Eleanor Antonietti <eantonietti@nantucket-ma.gov>; Tucker Holland <tholland@nantucket-ma.gov>; Josh Posner <jposner@risingtidellc.net>; Ruth <ruthplan@gmail.com>  
Subject: Beach Plum Memo - May 12, 2020

See attached.

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Howard C. Edelman ADR, Inc.  
Arbitrator/Mediator  
---------------------------------  
1175 York Avenue, PHA-8  
New York, NY 10065  
Phone: (212) 644-2380
Hi Eleanor,

I am a new homeowner in Beach Plum Village. And, unfortunately was never informed that BPV had to open up the use of the amenities to “abutters” while purchasing my home. But, it sounds like that was a deal that was entered into by the developer long ago. Another surprise as a new homeowner, was that the HOA would be required to provide a pool attendant during operating hours. This requirement has also increased the cost of the amenities significantly.

With that being said, I don’t see how we could be considering a proposal where the abutters would be paying less than some BPV residents. That seems very unfair. In addition, I would expect abutters who elect to buy-in to the community facilities to have a much higher utilization rate than the average BPV resident – given they’re proactively choosing to join the community facilities – they would only be doing so if they expected to use the facilities regularly. There seem to be multiple reasons why the abutters should pay as much as the highest paying BPV residents.

Hopefully this can all be resolved at the meeting on Thursday.

Thank you for your consideration and the invitation.

Dana Battiston
4 Thistle Way

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Dear ZBA,

We are residents of Beach Plum Village and love living in our small community. Last year, we learned we needed to open up use of the common amenities to a few of our neighbors to comply with a ruling with the developer that pre-dated the purchase of our home. We will be watching the Thursday meeting via YouTube as we hear there are a number of residents who asked to join the Zoom meeting and you are getting inundated with requests. A group of our neighbors have worked very diligently to come up with a proposal that is fair in terms of the cost of these amenities and their upkeep. We believe Howard Edelman’s proposal is fair and equitable. Beach Plum Village homeowners paid for the construction of these amenities and also pay annual maintenance fees for their upkeep. We are proud to live in a community with 40B homeowners. That does not mean Beach Plum Village should be subsidizing abutting neighbors who purchased or built full market rate homes to use our amenities at a discounted rate. We also have concerns on how we ensure people are abiding by the rules (i.e. who is permitted to enter the gym, pool and tennis courts). We have already had numerous issues with unauthorized people swimming in the pool and using the tennis courts over the past few years. We are a small community and no one wants to be constantly monitoring who can use the pool, tennis court and gym and at what time. In light of COVID-19, we also have questions and logistical concerns regarding how we properly maintain social distancing in the tiny gym, tennis court and pool (if and when these re-open). Thank you.

Sincerely,

Vanessa and Chris Giampapa
1 Blue Flag Path
To Eleanor Antonietti and members of the Zoning Board of Appeals

My husband and I recently became aware of a letter written to the ZBA by Tucker Holland on regarding the use of Beach Plum amenities by owners of abutting properties. I am very concerned about some of Mr. Holland’s points.

My concerns are simple: the abutters are receiving the same quality amenities as people in BOV so why should they pay less than us? Most people in BPV don’t rent their home but they are not receiving a discount on amenities. There is nothing in the original agreement about offering it to the abutters renters? Why is this such a sticking point? It sounds above and beyond the agreement to me.

In addition all abutters properties are considered market priced properties. In BPV there are 10 affordable homes and those owners pay a highly discounted HOA fee. Mr. Holland wants to consider those discounted rates when establishing the rates for abutters. There is no justification for this. Abutters will not be charged for subdivision costs that are unrelated to amenities. But they should not pay a rate that is discounted from that paid by any of the BPV homeowners. If it’s at a discounted rate abutters cannot be expected to have a high rate of usage. Honestly it’s just not a large space and can’t handle so much in and out especially this year during COVID times.

Thank you in advance.

Best,

Lauren & Andrew Cuneo
14 Blazing Star
Please excuse any spelling, grammar or just general inappropriateness. One of my three boys probably hijacked my iPhone illegally...