



Nantucket Planning Board

Nantucket Planning Board APPROVED Minutes
Remote Participation via Zoom Webinar
January 12, 2023 @ 4:00 PM

Board Members: David Iverson (Vice-Chair), Barry Rector, and Joseph Topham
John Trudel, III (Chair) - **ABSENT**, Nat Lowell - **ABSENT**

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Staff: Andrew Vorce (Planning Director), Leslie Snell (Deputy Director of Planning),
Meg Trudel (Land Use Planner)-**ABSENT**, Catherine Ancero (Administrative
Specialist) and William (Billy) Saad (Land Use Specialist)

To view the meeting only, see link below:
https://www.youtube.com/watch?v=Cbbu_OLuz1s

I. **Call to order:**

Acting-Chair Iverson called the meeting to order at 4:04PM.

Acting-Chair Iverson read a prepared statement in accordance with Governor Baker's March 21, 2020, order regarding open meeting law, which outlines how the meeting is conducted via remote participation and states the ground rules for any discussion.

Roll call of those participating:

Board members:

Barry Rector *Aye*
Joseph Topham *Aye*
Acting - Chair Iverson *Aye*

Alternates:

Carl Borchert *Aye*
Stephen Welch *ABSENT*
Abby De Molina *ABSENT*

Staff:

Catherine Ancero *Aye*
Billy Saad *Aye*
Leslie Snell *Aye*

Acting-Chair Iverson stated that the one thing he wants to discuss with the Board members is how they are going to deal with the articles concerning Short-Term rentals and that they should follow the lead of the Select Board and that is to open the public meeting and take no action if the Board agree. Mr. Rector stated that he is not sure he wants to take no action and that it should go to say not to adopt. Mrs. Snell stated that either option is fine. Campbell Sutton stated that she wasn't sure if they wanted to hear from her tonight or next Thursday. Acting-Chair Iverson stated that Catherine circulated her letter and that the Board received it. Ms. Sutton would like to be heard tonight. Acting-Chair Iverson set forth some rules with the Board members. He stated that this is not a venue to debate between the public and the author of the warrant articles, to refrain from that and the Board can state their opinion and should be respectful. Mrs. Snell stated that Mr. Saad sent out a new agenda that reflects the order of the articles that will be printed in the warrant. Mrs. Snell stated that Ms. Williams will not be able to attend tonight's meeting due to a conflict with the Conservation Commission however she would like for the Board to open the public hearing because she knows that's required and continue that to January 26th.

II. Approval of the agenda:

Mr. Rector moved to approve the agenda. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*

Joseph Topham *Aye*

Acting-Chair Iverson *Aye*

III. Zoning Articles Proposed by Citizen Petition:

- **Zoning Bylaw Amendment** to amend the definition of "Swimming Pool" as defined in the Zoning Bylaw (Section 139-2 "Definitions") to include the language, "In R-10, R-10L, SR-10, R-20, and R-40 Districts only, the following criteria must be met: (1) the lot must meet or exceed the minimum lot size for the district, and (2) side and rear yard setbacks of 20 feet shall apply to the residential swimming pool and all associated mechanical equipment" (Sutton).

Representing: Campbell Sutton

Discussion: Mrs. Sutton read her prepared statement. Mr. Topham stated that he the article has some merits however there needs some tweaks. Acting-Chair Iverson stated that he agrees with Mr. Topham although expressed concerns with smaller districts which can be problematic. Mr. Rector expressed his concern with setbacks and that the ZBA are the Boards who deals with the review and should give them the ability to make that decision. Mr. Rector would like to know how many undersized lots that are being addressed and would like a number with it. Mrs. Sutton stated that for reference she has been at HDC and ZBA meetings and they would appreciate having something other than their own opinions some parameters. Ms. Sutton stated that she is trying to give all agencies some basic parameters from which to operate and promote the health and well-being of neighbors. Mrs. Snell reminded the Board why the Special Permit exist in the VR because the neighborhood group came to the Planning Board asking to prohibit pools in the VR district in Madaket. The compromise that was reached was allow by Special Permit and to increase the minimum lot size and the setbacks. The way the article is drafted currently is that if you cannot meet those increased setbacks and you don't have another option like to reduce the size of the pool you would have to go to the Zoning Board of Appeals for a variance to reduce the setback.

Acting-Chair Iverson opened the floor to the public. Anne Dewez stated that she would like to commend Campbell for her initiative and trying to create a common set of rules and guidelines that everyone can understand. Catherine Ward stated that the noise would be more disturbing for a smaller lot and to take into consideration. Mr. Rector stated that he is going to ask the applicant to be forthright and submit prior to Town Meeting how many complaints are received.

Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by Mr. Topham and the motion carried unanimously 3-0.

Vote taken by Roll Call:

Barry Rector *Aye*
Joseph Topham *Aye*
Acting-Chair Iverson *Aye*

Mr. Topham stated that it needs more information and the number of lots that will be affected by this. Acting-Chair Iverson questioned if Ms. Sutton can provide information about the number of lots that are going to be affected by this. Mrs. Snell stated that the public hearing is close can not received more information. Public hearing could be re-advertised.

Mr. Rector withdrew his motion to close the public hearing. Mr. Topham withdrew his second.

Vote taken by Roll Call:

Barry Rector *Aye*
Joseph Topham *Aye*
Acting-Chair Iverson *Aye*

There was a brief discussion of Ms. Sutton providing request asked by Board.

Mr. Rector moved to continue this article to February 13th. The motion was duly seconded by Mr. Topham and the motion carried unanimously 3-0.

Vote taken by Roll Call:

Barry Rector *Aye*
Joseph Topham *Aye*
Acting - Chair Iverson *Aye*

- **Zoning Bylaw Amendment** to insert a new provision into the Zoning Bylaw for short term rentals, allowing as of right for units that are owner-occupied for a minimum of six-months of the year in all residential districts. For non-owner-occupied units, short-term rentals would be permitted in any residential unit as an accessory use if the unit is used for a long-term rental use more than a short-term rental use (Kilvert).

Representing: Emmy Kilvert

Discussion: Ms. Kilvert gave a brief overview of the proposed warrant article. Acting-Chair Iverson opened the floor to the public. Catherine Ward stated that this article supports Nantucket Homeowners who want to rent their homes for less time than they live in it. Ms. Ward stated that the Nantucket Residents are protected and the commercialization properties are not. Ms. Ward asked the Board not to

support until they hear what the community has to say. Anne Dewez asked Ms. Kilvert if there is significant progress in the STR Work Group with a lot of confidence that something will come out of that can be widely accepted by voters in Nantucket before Town Meeting would Ms. Kilvert drop the article for Town Meeting. Ms. Kivert stated that if the STR Workgroup could come up with an article for the May Town Meeting she would not be committed to dropping the article until she knows what they came up with and it represents what she thinks the voters want. Emily Molden stated that she shares support for the approach of allowing STRs as accessory uses and will continue to review the implications of this proposal in the upcoming weeks. Eric Silfen stated that he appreciates the comments that had been made and would like to support what Ms. Kilvert stated regarding STR. Mr. Silfen stated that the Short-Term Rental Workgroup is not going to bring anything forward that is going to be satisfactory.

Motion/Vote: Mr. Topham moved to close the public hearing. The motion was duly seconded by Mr. Rector and the motion carried unanimously 3-0.

Vote taken by Roll Call:

Joseph Topham *Aye*

Barry Rector *Aye*

Acting-Chair Iverson *Aye*

Mr. Rector stated that the STR workgroup is moving ahead in a very positive direction.

Motion/Vote: Mr. Rector moved not to adopt this article. The motion was duly seconded by Mr. Topham and the motion carried unanimously 3-0. Mr. Topham stated that he feels like the STR Work Group is working in a positive manner and give them time to make it correct.

Vote taken by Roll Call:

Barry Rector *Aye*

Joseph Topham *Aye*

Acting - Chair Iverson *Aye*

- **Zoning Bylaw Amendment** to change the special permit granting authority for residential swimming pools from the Zoning Board of Appeals to the Planning Board (Section 139-2 “Definitions”) (Williams);
- **Zoning Bylaw Amendment** to amend language in Section 139-16 “Intensity Regulations” to change the special permit granting authority for the reduction in frontage in commercial districts from the Zoning Board of Appeals to the Planning Board (Williams).
- **Zoning Bylaw Amendment** to amend language in Section 139-16 “Intensity Regulations” to change the special permit granting authority for the reduction in the required ten-foot side yard setback in R-5 and the ten-foot side and rear yard setback in R-10, R-20, and SR-20 to five feet from the Zoning Board of Appeals to the Planning Board (Williams).
- **Zoning Bylaw Amendment** to amend language in the Zoning Bylaw (Section 139-15 “Accessory Use”) to clarify that the rental of rooms in an owner-occupied dwelling is permitted as an accessory use (Williams).
- **Zoning Bylaw Amendment** to amend the definition of “Principal Use” in the Zoning Bylaw (Section 139-2 “Definitions) by deleting the word “expressly” (Williams).

- **Zoning Bylaw Amendment** to amend the definition of “Commercial” in the Zoning Bylaw (Section 139-2 “Definitions”) to exclude rental of dwelling units (Williams).

Discussion: Mrs. Snell stated that the public hearing must be open 65 days of the receipt of the articles from the Select Board, today’s the last day for that based on the meeting schedule. Mrs. Snell stated that the Board would have to take their comments however they certainly discourage them from commenting and encourage them to wait until having an open discussion. Acting-Chair Iverson stated that they have opened the public hearing on all the articles that are Ms. Williams, which Mrs. Snell listed. Catherine Ward questioned the definition of commercialization. Acting-Chair Iverson stated that it is in her article, and as a Board going to consider that as STR and will not take position on it and it has been continued. Mr. Rector stated that he suggests that there be no comment taken on anything.

Motion/Vote: Mr. Rector made a motion to continue the six articles listed above from Ms. Williams to January 26th. The motion was duly seconded by Mr. Topham and the motion carried unanimously 3-0.

Vote taken by Roll Call:

Barry Rector *Aye*
 Joseph Topham *Aye*
 Acting - Chair Iverson *Aye*

- **Zoning Bylaw Amendment** amend the Zoning Bylaw (Section 139-33 “Pre-existing non-conforming uses and structures”) to add language that would require any new structure or expansion or increase in “volume, area, or height” of a structure on a lot that was approved under MGL 41-81L to require a Special Permit from the Zoning Board of Appeals (Molden)
- **Zoning Bylaw Amendment** to amend the Zoning Bylaw (Section 139-33 “Pre-existing non-conforming uses and structures”) to delete language that provides preexisting nonconforming status for lots, and any structures thereon, created pursuant to MGL 41-81L (Molden).

Discussion: Ms. Molden stated that she has two articles, and her intention is to try to move one of the articles forward at Town Meeting, they both address the same matter in two different ways. Ms. Molden presented both articles at the same time. Ms. Molden did a brief presentation. Acting-Chair Iverson opened the floor to the public. Mrs. Snell stated that her proposal is much clearer and that they could work between now and a future meeting if the Board and Ms. Molden are interested in that. Mrs. Snell stated that the Bylaw used to be set up in a way that Ms. Molden’s proposal to set it up created a conflict between what’s allowed under State law and what’s allowed under our local Zoning Bylaw. Stephanie Bradford at 128 Main Street stated that the language in section 139-33 can be very harmful effects not just in terms of safety and congestion, over development and the loss of historic properties and structures. Ms. Bradford stated that they fully support Article 25. Mr. Rector stated that by removing 41 81L all together concerns him because it is a conflict of what’s out there in terms of State law. Mr. Rector stated that the second article has opportunities to do some positive things and do some clean up. Mr. Rector suggest continuing both articles to allow staff to do the analysis and get

some feedback from ZBA. Mr. Topham agrees with Mr. Rectors comments. Mr. Topham stated that this is important to look at. Acting-Chair Iverson agrees with his colleagues. Acting-Chair Iverson stated that he prefers the second article. Ms. Molden stated that she is willing to meet with staff in getting some input on how to proceed with these articles. Ms. Molden stated that it's the blanket granting the automatically granting of these newly created lots of pre-existing non-conforming rights that create some problems.

Motion/Vote: Mr. Rector made a motion to continue to February 9th. The motion was duly seconded by Mr. Topham and the motion carried unanimously 3-0.

Vote taken by Roll Call:

Barry Rector *Aye*
Joseph Topham *Aye*
Acting - Chair Iverson *Aye*

- **Zoning Map Amendment** to place properties located at 6, 6B, 8, 10, 12, and 20 Arrowhead Drive currently in the Residential-Commrcial-2 (“RC-2”) district in the Commercial Mid-Island (“CMI”) district and property located at 118 Arrowhead Drive currently in the Commercial Industrial (“CI”) district in the Commercial Mid-Island (“CMI”) district (Reade).

Representing: Attorney Arthur Reade for Plumber Supply.

Discussion: Attorney Reade gave a summary of the proposed article. Acting-Chair Iverson opened the floor to the public. There were no public comments. Mrs. Snell stated that this is consistent with the Master Plan phasing out RC-2 and staff recommends approval.

Motion/Vote: Mr. Topham made a motion to close the public hearing. The motion was duly seconded by Mr. Rector and the motion carried unanimously 3-0.

Vote taken by Roll Call:

Joseph Topham *Aye*
Barry Rector *Aye*
Acting - Chair Iverson *Aye*

Motion/Vote: Mr. Topham made a motion to give a positive recommendation. The motion was duly seconded by Mr. Rector and the motion carried unanimously 3-0.

Vote taken by Roll Call:

Joseph Topham *Aye*
Barry Rector *Aye*
Acting - Chair Iverson *Aye*

- **Zoning Map Amendment** to place properties located at 1 Evergreen Way and 21 Airport Road currently located in the Residential-40 (“R-40”) district in the Commercial Neighborhood (“CN”) district (Kane); and

Representing: Shane Valero

Discussion: Mr. Valero gave a brief overview of the proposed article. Acting-Chair opened the floor to the public. There was no public comment. Mrs. Snell stated that it has all the necessary infrastructure and consistent with the Master Plan. Staff

recommends approval. Acting–Chair Iverson stated that this is a great location and is comfortable with the proposal.

Motion/Vote: Mr. Topham made a motion to close the public hearing. The motion was duly seconded by Mr. Rector and the motion carried unanimously 3-0.

Vote taken by Roll Call:

Joseph Topham *Aye*

Barry Rector *Aye*

Acting - Chair Iverson *Aye*

Motion/Vote: Mr. Topham made a motion to adopt. The motion was duly seconded by Mr. Rector and the motion carried unanimously 3-0.

Vote taken by Roll Call:

Joseph Topham *Aye*

Barry Rector *Aye*

Acting-Chair Iverson *Aye*

- **Zoning Map Amendment** to place property located at 69 Hummock Pond Road currently in the Limited Use General-2 (“LUG-2”) district in the Residential-20 (“R-20”) district (Iller).

Representing: Attorney David Buckley

Discussion: Attorney Buckley gave a brief overview of the proposed article. Mr. Rector stated that he is in favor of the proposed article. Mr. Topham agrees with Mr. Rector. Acting-Chair Iverson stated that Ms. McGrath had every opportunity to change or to amend what she had done. Acting-Chair Iverson concerned about the ability to subdivide the lot and what her intentions are. the Acting–Chair Iverson opened the floor to the public. Attorney Buckley stated that his interpretation of the Conservation Restriction is that the subdivision is not possible. Attorney Buckley stated that he is working with Emily Molden to ensure that this lot is not subdividable and that was never the intention. Mrs. Snell stated that the Board agreed to put this article as a Planning Board sponsored article that public hearing is scheduled on January 26th which includes a change from the Country Overlay District to the Town Overlay District due to it was omitted from the citizen petition. Acting-Chair Iverson asked that without the Overlay District being extended if this was a viable article. Mrs. Snell stated yes, there’s nothing in the Zoning Bylaw that prohibits an inconsistency between the Zoning District that’s designated as Town or Country District. Mrs. Snell stated that as a policy the Planning Board has tried to align those two things as much as possible. Emily Molden from the Nantucket Land Council stated that she believes the intention was not to all the lot to be subdivided and she asked Attorney Buckley whether the CR would in fact enable the back portion of that lot to be subdivided should the zoning be returned to R-20 and have not determine the outcome and would be supportive of having this continued. Acting-Chair Iverson asked Mrs. Snell if can come to an agreement with less than 5000 square foot to include in the motion and if it’s outside the scope. Mrs. Snell stated that its outside of the scope of the article to include as part of the motion. Mrs. Snell stated that the Board could encourage the owners and the Land Council to work towards a change in the Conservation Restriction or some other document that would further restrict the ground cover. Campbell Sutton stated that she thought the Planning Board was not trying to expand Town Overlay Districts and what the implications of extending the Town Overlay into this area. Mrs. Snell stated that we discourage is new overlay districts

and have been eliminating overtime. Mrs. Snell stated that the Town and Country Overlay Districts is something that Town Meeting and the voters have repeatedly supported and it designates which area of the island should be considered the Town where there's no development to take place and which part should be in the Country.

Motion/Vote: Mr. Rector made a motion to continue to January 26th. The motion was duly seconded by Mr. Topham and the motion carried unanimously 3-0.

Vote taken by Roll Call:

Barry Rector *Aye*
Joseph Topham *Aye*
Acting - Chair Iverson *Aye*

- **Zoning Map Amendment** to place property located at 6 Elbow Lane currently in the Sconset Old Historic ("SOH") district in the Village Neighborhood ("VN") district (Williams).

Representing: Attorney Arthur Reade.

Discussion: Attorney Reade gave a summary of the proposal. Acting-Chair Iverson opened the floor to the public. There was no public comment. Mrs. Snell stated that this is consistent with the Master Plan and recommend in favor. Mr. Rector in favor of supporting this. Mr. Topham agrees as well and has no concerns.

Motion/Vote: Mr. Rector made a motion to close the public hearing. The motion was duly seconded by Mr. Topham and carried unanimously 3-0.

Vote taken by Roll Call:

Barry Rector *Aye*
Joseph Topham *Aye*
Acting - Chair Iverson *Aye*

Motion/Vote: Mr. Rector made a motion to adopt. The motion was duly seconded by Mr. Topham and carried unanimously 3-0.

Vote taken by Roll Call:

Barry Rector *Aye*
Joseph Topham *Aye*
Acting - Chair Iverson *Aye*

- **Zoning Map Amendment** to place properties located at 105 and 107 Old South Road, 3 Miller Lane, portion of 17 Airport Road and Old South Road/Little Isle Lane (Map 68 Parcels 174 and 208) currently located in the Residential-20 ("R-20") district in the Commercial Neighborhood ("CN") district (Williams).
- **Zoning Map Amendment** to place properties located at 11, 17 and 19 Miller Lane and 77, 79, 81A, 81B, 83, 87, 91 Old South Road currently in the Residential-20 ("R-20") district in the Residential-10 ("R-10") district (Williams).

Representing: None

Discussion: Chair opened the floor to the public for both articles of Zoning Map Amendment to place properties located at 105 and 107 Old South Road, 3 Miller Lane, portion of 17 Airport Road and Old South Road/Little Isle Lane (Map 68 Parcels 174 and 208) currently located in the Residential-20 ("R-20") district in the

Commercial Neighborhood (“CN”) district (Williams) and Zoning Map Amendment to place properties located at 11, 17 and 19 Miller Lane and 77, 79, 81A, 81B, 83, 87, 91 Old South Road currently in the Residential-20 (“R-20”) district in the Residential-10 (“R-10”) district (Williams). There were no public comments.

Motion/Vote: Mr. Rector made a motion to continue both articles. The motion was duly seconded by Mr. Topham and the motion carried unanimously 3-0.

Vote taken by Roll Call:

Barry Rector *Aye*
Joseph Topham *Aye*
Acting - Chair Iverson *Aye*

IV. Public Comment:

There was no public comment.

V. Other Business:

Upcoming Meetings:

- **Planning Board special meeting – Thursday, January 26, 2023, at 4pm via Zoom**
- **Planning Board special meeting – Thursday, February 9, 2023, at 4pm via Zoom**
- **Planning Board regular meeting – Monday, February 13, 2023, at 4pm via Zoom**
- **Planning Board special meeting – Thursday, March 9, 2023, at 4pm via Zoom**

XI. Adjournment:

Mr. Rector moved to adjourn the meeting at 6:10PM. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously.

Vote taken by Roll Call:

Barry Rector *Aye*
Joseph Topham *Aye*
Acting- Chair Iverson *Aye*