



# Nantucket Planning Board

Nantucket Planning Board APPROVED Minutes  
Remote Participation via Zoom Webinar  
March 9, 2023 @ 4:00 PM

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

**Alternates:** Stephen Welch (ABSENT), Carl Borchert, Abby De Molina

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

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## PLANNING BOARD APPROVED MINUTES FOR 03-09-2023

### **I. Call to order:**

Zoning Articles are for the sitting regular Board members.

Chair Trudel called the meeting to order for the March 9<sup>th</sup> at 4:03PM.

Chair Trudel 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:**

Vice- Chair Iverson *Aye*

Nat Lowell *Aye*

Barry Rector *Aye*

Joseph Topham *Aye*

Chair Trudel *Aye*

#### **Staff:**

Leslie Snell *Aye*

Meg Trudel *Aye*

Andrew Vorce *Aye*

Catherine Ancero *Aye (technical issues)*

#### **Alternates:**

Abby De Molina *Aye*

Carl Borchert *Absent*

Stephen Welch *Absent*

## **II. Approval of the agenda:**

Vice-Chair moved to approve the agenda. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.

### **Board members:**

Vice-Chair Iverson *Aye*

Nat Lowell *Aye*

Barry Rector *Aye*

Joseph Topham *Aye*

Chair Trudel *Aye*

## **III. Minutes:**

### **• December 12, 2022**

Mr. Lowell moved to continue the March 13<sup>th</sup> meeting. The motion was duly seconded by Mr. Rector and the motion was carried unanimously 5-0.

### **Board members:**

Nat Lowell *Aye*

Barry Rector *Aye*

Vice-Chair Iverson *Aye*

Joseph Topham *Aye*

Chair Trudel *Aye*

## **IV. Public Hearings:**

### **Zoning Articles Proposed by Citizen Petition:**

- **(Re-Advertisement) 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).

**Mrs. Snell requested to have this article moved to the end so the sponsor of this article can speak of her article.**

- **Zoning Bylaw Amendment: Preexisting Nonconforming Uses, Structures, and Lots (Article 62, draft 61)** 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).

**Zoning Bylaw Amendment: Preexisting Nonconforming Uses, Structures, and Lots (Article 63, draft 62)** 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)

**Discussion:** Mrs. Snell suggests that both articles be discussed together even though different but very much related. Emily Molden thanked staff for working with her to discuss the potential of other options that work on the intention of the articles. Ms. Molden shared some points and comments after doing her research. The purpose of this article is to address the creation of new lots and new dwellings that have not been accounted for. Ms. Molden asked the Board to support the amendment bylaw of Article 62 and to address the potential ramification of additional buildability which is not necessary and doesn’t serve a positive purpose. Ms. Molden would like the Planning Board to support Article 62 to remove the language that was added in 2012. Mr. Lowell stated that 41 81L sometimes allow families to keep their land. Mr. Lowell asked if staff could put a list of the more recent approvals, see what the results have been on the ground cover with additional units being added. Vice-Chair Iverson stated that Mr. Lowell said it well and that if Ms. Molden is willing to work with

staff more and figure this out we could put in a Special Town meeting in the fall. Vice-Chair Iverson is not comfortable with the articles right now. Mrs. Snell thanked Ms. Molden for taking the time to work with her and Meg on her articles and unfortunately just didn't have enough time to give it the level of review that it really deserved, and that Ms. Molden had some good concepts. Mrs. Snell agrees with the Board that it needs more time and needs to do more research and encourages the Board to make a motion to take no action but to include a comment as to why. Mrs. Snell stated to Ms. Molden that there's a lot of citizen articles that have come through throughout the years that have great concept however they're just not ready for that Town Meeting and they're successful when taken the time to really work on them and hopes that Ms. Molden would agree to that. Mr. Topham stated that we need this, however it needs to be worked on more, so it doesn't come back to bite us later. Mr. Rector stated that he agrees and there are a few areas of concern with Article 62 where there is potential for conflict with the State law. Mr. Rector stated that there seems to be an overlap with the HDC and that both articles need to go to a Special Town meeting. Mr. Rector stated that instead of taking no action is to not to adopt, it's cleaner. Chair Trudel agreed with the comments made by the Board. Opened the floor to the public. Stephanie Bradford stated that she agrees with the Article 62 approach because it is unclear to her what the intent of the technical amendment that was added in 2012 was and Ms. Bradford feels that she doesn't think that this is going to remove any of the ability to enforce the 41-81L, it's eliminating a way to exploit 41-81L. Mrs. Snell stated that through the local Zoning Bylaw the Board can place all kinds of standards, the State law through 41-81L allows their creation however the local Zoning Bylaw can either like in Article 62 require a Variance for anything that happens once the 41-81L is signed or the Board can put criteria in. Chair Trudel opened the floor to the public. No comments were made.

**Motion/Vote: Mr. Rector moved to close the public hearing for both articles. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.**

**Roll call of Board members:**

Barry Rector *Aye*  
Joseph Topham *Aye*  
Nat Lowell *Aye*  
Vice-Chair Iverson *Aye*  
Chair Trudel *Aye*

**Articles 62 and 63 both public hearings are closed.**

**Motion/Vote: Mr. Rector moved to not adopt Articles 62 and 63 and add a comment through staff with a quantum vote of 2/3. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.**

**Roll call of Board members:**

Barry Rector *Aye*  
Joseph Topham *Aye*  
Vice-Chair Iverson *Aye*  
Nat Lowell *Aye*  
Chair Trudel *Aye*

**Zoning Article Proposed by the Planning Board:**

- **Zoning Bylaw Amendment: Definitions -Time Sharing or Time-Interval-Ownership Dwelling Unit or Dwelling** – to amend Section 139-2A “Definitions” to include language for fractional ownership. Talked with the Town Council and that this article is premature and put off at a Special Town meeting or future Town Meeting.

**Discussion:** Mrs. Snell stated that staff spoke with Town Council regarding to add something about fractional ownership and at this time is premature, it may address things that we don't mean it to address, and it also is somewhat tied to the short-term rental discussion and that this should be put off for the Special Town Meeting or a future Town Meeting. No comments from the Board. Chair Trudel opened the floor to the public. No comments from the public.

**Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by Vice-Chair Iverson and the motion was carried unanimously 5-0 in favor.**

**Roll call of Board members:**

Barry Rector *Aye*  
Vice-Chair Iverson *Aye*  
Nat Lowell *Aye*  
Joseph Topham *Aye*  
Chair Trudel *Aye*

**Motion/Vote: Mr. Rector moved not to adopt and add a comment through staff with a quantum vote of 2/3. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.**

**Roll call of Board members:**

Barry Rector *Aye*  
Joseph Topham *Aye*  
Nat Lowell *Aye*  
Vice-Chair Iverson *Aye*  
Chair Trudel *Aye*

- **Zoning Map Amendment: RC-2 to R-5 and/or CTEC – Appleton Road (Article 45, draft 44)** – to place properties at 20, 22, 24 Appleton Road currently in the RC-2 district in the R-5 and/or CTEC district.

**Discussion:** This article includes three parcels and staff suggest making a vote of to taking no action. Mr. Rector questioned if this needs to go to a different Town Meeting or is it something that needs to be cleaned up. Mrs. Snell stated that it needs to go to a different Town Meeting. Chair Trudel opened the floor to the public. Anne Dewez asked if could give a very brief as to why the article is being proposed. The Planning Board has been trying to work with property owners to rezone the properties to something that they can agree with, and the owners also put off articles when there's a situation where a particular property owner has plans that just can't be worked around with the rezoning. Mrs. Snell stated that in this case one of the property owners came to her and he had imminent plans for his property however it couldn't be accommodated with a preliminary plan because the land was not big enough, it couldn't work with a perimeter plan and therefore left the owner no options. Mrs. Snell spoke with the owner and suggested to the owner to put off giving more time and the owner is amenable to the Zoning change in the future.

**Motion/Vote: Mr. Rector moved to close the public hearing for. The motion was duly seconded by Vice-Chair Iverson and the motion was carried unanimously 5-0.**

**Roll call of Board members:**

Barry Rector *Aye*  
Vice-Chair Iverson *Aye*  
Nat Lowell *Aye*  
Joseph Topham *Aye*  
Chair Trudel *Aye*

**Motion/Vote: Mr. Rector moved not to adopt and add a comment from staff with a quantum vote of 2/3. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.**

**Roll call of Board members:**

Barry Rector *Aye*  
Nat Lowell *Aye*  
Joseph Topham *Aye*  
Vice-Chair Iverson *Aye*  
Chair Trudel *Aye*

- **Zoning Map Amendment: RC-2 to R-5 and/or CTEC – Nobska Way (Article 46, draft 45)** – to place properties at 3, 4, 5, 6, 8 Nobska Way currently in the RC-2 district in the R-5 and/or CTEC district.

**Discussion:** Mrs. Snell stated that there is an agreement to Zoning Map change to district R-5. The neighborhood wanted to keep a residential character of their neighborhood. Staff recommend that the Board vote for Zoning Map change to R-5. Chair Trudel opened the floor to the public. Julie Fitzgerald representing Carl Sjolund at 24 Appleton Road and 3 Nobska Way stated that rather than going to R-5 go to CTEC for both properties. 3 Nobska Way already a commercial use the current building originally was a house, but it's currently used as an office. Mrs. Snell stated that she did speak with Mrs. Fitzgerald and Mr. Shurland and that the lot is an oversized and they have an opportunity to file a preliminary plan prior to Town Meeting to preserve their rights.

**Motion/Vote: Mr. Topham moved to close the public hearing. The motion was duly seconded by Mr. Rector and the motion was carried unanimously 5-0.**

**Roll call of Board members:**

Joseph Topham *Aye*  
Barry Rector *Aye*  
Nat Lowell *Aye*  
Vice-Chair Iverson *Aye*  
Chair Trudel *Aye*

**Motion/Vote: Mr. Rector moved to a Zoning Map change to R-5 with a quantum vote of 50 percent. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.**

**Roll call of Board members:**

Barry Rector *Aye*  
Joseph Topham *Aye*  
Nat Lowell *Aye*  
Vice-Chair Iverson *Aye*  
Chair Trudel *Aye*

- **Zoning Map Amendment: R-1 to R-5, CN, and CMI – Pleasant Street, Kimberly Way, Williams Lane, Cherry Street, Bear Street, and Madison Court** – to place properties at 78/80/ 82/ 84/ 86/88(portion of) Pleasant Street, 5/11 Kimberly Way, 3/5/7/9/11/16/18 Williams Street, 3/3B/5/6/6/7/8/9/10/10/14/15/16/18/20 (portion of) Cherry Street, 3/5/11/13/13/15 Bear Street, and 1/3/5 Madison Court currently in the R-1 district in the R-5 district; to place properties at 20 (portion of) Cherry Street and 88 (portion of)/90/92/94(portion of) Pleasant Street currently in the R-1 district in the CN district; and to place properties at 20(portion of) Cherry Street and 94(portion of) Pleasant Street currently in the R-1 district in the CMI district.

**Discussion:** This was a re-advertisement. Staff asked that the Board support this article. Vice-Chair Iverson questioned if dividing two lots into different zoning districts. Mrs. Snell stated that they are anticipating a plan coming forward to fix that. Chair Trudel opened the floor to the public. No public comments were made.

**Motion/Vote:** Mr. Rector moved to close the public hearing. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.

**Roll call of Board members:**

Barry Rector *Aye*  
Nat Lowell *Aye*  
Joseph Topham *Aye*  
Vice-Chair Iverson *Aye*  
Chair Trudel *Aye*

**Motion/Vote: Mr. Rector moved to adopt with the quantum vote of 50 percent. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.**

**Roll call of Board members:**

Barry Rector *Aye*  
Nat Lowell *Aye*  
Joseph Topham *Aye*  
Vice-Chair Iverson *Aye*  
Chair Trudel *Aye*

- **Zoning Map Amendment: RC-2 to R-20 and LUG-3 – 91 and 95 Miacomet Avenue** – to place properties at 91 Miacomet Avenue and 95 Miacomet Avenue (portion of) currently in the RC-2 district in the R-20 district and to place property located at 95 Miacomet Avenue (portion of) currently located in the RC-2 district in the LUG-3 district.

**Discussion:** Staff suggest that they give this article a positive motion. Vice-Chair Iverson asked if this is how they are dealing with open space not changing it to LUG-3. Mrs. Snell said yes. Chair Trudel opened the floor to the public. No public comment.

**Motion/Vote: Mr. Rector moved to close the public hearing for both articles. The motion was duly seconded by Vice-Chair Iverson and the motion was carried unanimously 5-0.**

**Roll call of Board members:**

Barry Rector *Aye*  
Vice-Chair Iverson *Aye*  
Nat Lowell *Aye*  
Joseph Topham *Aye*  
Chair Trudel *Aye*

**Motion/Vote: Mr. Rector moved to adopt with a quantum vote of 2/3. The motion was duly seconded by Vice-Chair Iverson and the motion was carried unanimously 5-0.**

**Roll call of Board members:**

Barry Rector *Aye*  
Vice-Chair Iverson *Aye*  
Nat Lowell *Aye*  
Joseph Topham *Aye*  
Chair Trudel *Aye*

- **(Re-Advertisement) 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).

**Discussion:** Mrs. Trudel stated that she texted the sponsor and has not heard anything from Ms. Sutton. Mr. Rector asked about the meeting on April 13<sup>th</sup>. Mrs. Snell stated that the agenda for April 13<sup>th</sup> is large and that the Board will need to adopt all of your comments and motions. Staff need to get all comments and motions first thing Tuesday morning to FinCom. Chair Trudel opened the floor to the public. No comments were made by the public.

**Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.**

**Roll call of Board members:**

Barry Rector *Aye*  
Joseph Topham *Aye*  
Vice-Chair Iverson *Aye*  
Nat Lowell *Aye*  
Chair Trudel *Aye*

**Motion/Vote:** Mr. Rector moved not to adopt and had a significant discussion leading up to this meeting with a quantum vote of 2/3. Vice-Chair Iverson expressed that he has a lot of concerns about this article, that it will restrict people's ability to build pools. Mr. Topham agrees with Vice-Chair Iverson and that it's going to take away property rights and is not in favor of this article. Chair Trudel stated that the Board did receive Ms. Suttons statistics and reviewed everything. The motion was duly seconded by Vice-Chair Iverson and the motion was carried unanimously 5-0.

**Roll call of Board members:**

Barry Rector *Aye*  
Vice-Chair Iverson *Aye*  
Nat Lowell *Aye*  
Joseph Topham *Aye*  
Chair Trudel *Aye*

**V. Planning Board Motions and Comments on all articles:**

Anne Dewez sent a letter asking about the format for these meetings, usually in a webinar format which doesn't allow to see other participants and doesn't allow video for anything other than names on the panelist. Ms. Dewez stated that she has not received a response to her query and was wondering if the Chair was in a position to respond now or should she continue to wait for a written response without getting into a lengthy dialogue. Chair Trudel stated that she will have to wait, there are still things being discussed at the State level that the Board is still waiting for information to come in. Vice-Chair Iverson stated that he apologizes to Anne that he has not seen the email, he has been traveling and will try to find that email.

**VI. Public Comment for items not listed on the agenda**

**VII. Other Business:**

- **Planning Board regular meeting – Monday, March 13, 2023, at 4pm via Zoom**
- **Planning Board joint meeting with Select Board and Fin Com – March 20, 2023, at 4pm via Zoom**

**XI. Adjournment:**

**Motion/Vote:** Mr. Rector moved to adjourn the meeting at 5:20PM. The motion was duly seconded by Mr. Topham and the motion carried unanimously 5-0 in favor.

**Vote taken by Roll Call:**

Barry Rector *Aye*  
Joseph Topham *Aye*  
Vice-Chair Iverson *Aye*  
Nat Lowell *Aye*  
Chair Trudel *Aye*