



ZONING BOARD OF APPEALS

2 Fairgrounds Road
Nantucket, Massachusetts 02554
www.nantucket-ma.gov

Commissioners: Ed Toole (Chair), Lisa Botticelli (Vice chair), Susan McCarthy (Clerk), Michael J. O'Mara, Kerim Koseatac
Alternates: Mark Poor, Geoff Thayer, Jim Mondani

~~ MINUTES ~~

Thursday, April 11, 2019

Public Safety Facility, 4 Fairgrounds Road, Community Room –1:00 p.m.

Called to order at 1:03 p.m. and Announcements made.

Staff in attendance: Eleanor Antonietti, Zoning Administrator; T. Norton, Town Minutes Taker; Deputy Fire Chief Robert Bates
Attending Members: Toole, McCarthy, Botticelli, Koseatac, Thayer, Mondani
Absent: O'Mara, Poor
Late Arrivals: Mondani, 1:08 p.m.
Early Departures: None
Town Counsel: George Pucci, K&P Law

Agenda adopted by unanimous consent

I. APPROVAL OF MINUTES

1. May 14, 2019: **Motion to Approve as amended.** (made by: McCarthy) (seconded by: Koseatac) Carried 4-0//Botticelli abstain
2. March 26, 2019 (40B): **Motion to Approve as amended.** (made by: Botticelli) (seconded by: Thayer) Carried unanimously
3. March 29, 2019 (40B): **Motion to Approve as amended.** (made by: Botticelli) (seconded by: Thayer) Carried unanimously

II. OLD BUSINESS

1. 23-18 Adam Ross and Emma Ross 50 Okorwaw Avenue Beaudette

REQUEST TO CONTINUE, WITHOUT OPENING, TO MAY 9, 2019

Applicants are seeking to vacate and rescind prior relief by Variance granted pursuant to Zoning By-law Section 139-32 in order to validate the lot as a nonconforming lot of record and a residential building lot. At the time the relief was granted, the 44,813 sq. ft. lot was undersized for the LUG-2 zoning district in which it was situated. When the zoning was changed to LUG-1 in 2017, the lot became conforming in all respects, rendering the need for relief obsolete. The Locus is situated at 50 Okorwaw Avenue, is shown on Tax Assessor's Map 79 as Parcel 63, and as Lot 1 upon Plan No. 2012-82. Evidence of owner's title is recorded in Book 1375, Page 117 on file at the Nantucket Registry of Deeds. The site is zoned Limited Use One (LUG-1).

Voting Toole, McCarthy, Botticelli, Koseatac, Mondani
Alternates Thayer
Recused None
Documentation File with associated plans, photos and required documentation
Representing None
Public None
Discussion Not opened at this time.
Motion **Motion to Continue to May 9.** (made by: Botticelli) (seconded by: Koseatac)
Vote Carried 5-0

2. 01-19 Steven W. Russo, Tr., 43A Union Street Trust 43A Union St Reade

REQUEST TO WITHDRAW WITHOUT PREJUDICE

Voting Toole, McCarthy, Botticelli, Koseatac, Thayer
Alternates Mondani
Recused None
Documentation File with associated plans, photos and required documentation
Representing None
Public None
Discussion Not opened.
Motion **Motion to Approve the withdrawal without prejudice.** (made by: Botticelli) (seconded by: Koseatac)
Vote Carried 5-0

3. 04-19 Linda A. Yates 21 Derrymore Road Cohen
 Applicant is requesting relief by Variance pursuant to Zoning By-law Section 139-32 for a waiver from the 5-foot side yard setback provision in Section 139-16 in order to construct a new dwelling as close as 2 feet from the northerly side yard lot line. The property is located at 21 Derrymore Road, shown on Assessor's Map 41 as Parcel 117 and as Lot 51 upon Land Court Plan 13199-V. Evidence of owner's title is registered on Certificate of Title No. 22854 at the Nantucket County District of the Land Court. The site is zoned Residential -1 (R-1).

Voting McCarthy (acting chair), Botticelli, Koseatac, Thayer, Mondani
 Alternates None
 Recused Toole
 Documentation File with associated plans, photos and required documentation
 Representing Steven Cohen, Cohen & Cohen Law P.C.
 Public None
 Discussion **Cohen** – This is a for intrusion into a setback to be cured upon acquisition of a substantial amount of land through the Yard Sale program; the Town has filed the S-petition with the Land Court, which Ms. Antonietti has a copy of.
Botticelli – Mr. Poor wanted to see the HDC approval with the parking changed.
Cohen – He thought that would be a condition of the approval.
Antonietti – There are four abutters on Delaney & Derrymore who are able to acquire five parcels.
Botticelli – Asked about plans showing a window well out of the current setback. She feels the window well should be eliminated until after the land purchase; besides the window well doesn't show up on the site plan.
McCarthy – Reviewed proposed conditions included in the Staff Report.
Mondani – This is a very unique situation.
Thayer – He wants this conditioned that there will be no further subdivision.
Botticelli – She stated she felt it was disingenuous of the client's representative to say that if his client doesn't get this variance and has to remove 3 feet off the house, she would have to build a box; that isn't true.
 Motion **Motion to Grant the variance with conditions as stated.** (made by: Mondani) (seconded by: Koseatac)
 Vote Carried 5-0

III. NEW BUSINESS

1. 03-19 Estate of Nikki S. Toole; Edward S. Toole, Tr., ECMJ Nominee Trust; Sarah F. Alger, Tr., 15 Sandsbury Nominee Trust
 11, 13, and 15 Sandsbury Road Alger

REQUEST TO CONTINUE, WITHOUT OPENING, TO MAY 9, 2019

Applicant is seeking Special Permit relief pursuant to Zoning By-law Sections 139-30 and 139-33.A, or in the alternative Variance relief pursuant to Section 139-32, to reconfigure 3 pre-existing nonconforming lots by way of lot line adjustments between the 3 owners. As proposed, Lot 707 would be less conforming as to area and frontage; Lot 717 would be more conforming as to area and frontage; Lots 718 and 719 would be less conforming as to area and unchanged as to frontage. Development potential as to ground cover and allowed number of bedrooms would remain unchanged as a result of the proposed reconfigurations. Locus is situated at 11, 13, and 15 Sandsbury Road, is shown on Assessor's Map 92.4 as Parcels 272, 284, and 285, and as Lot 707 upon Land Court Plan 5004-36 and Lots 717, 718, 719 upon LCP 5004-42. Evidence of owners' title is registered on Certificate of Title No.s 18503, 23750, and 24616 at the Nantucket County District of the Land Court. The site is zoned Limited Use General Three (LUG-3).

Voting McCarthy (acting chair), Botticelli, Koseatac, Thayer, Mondani
 Alternates None
 Recused Toole
 Documentation File with associated plans, photos and required documentation
 Representing None
 Public None
 Discussion Not opened at this time.
 Motion **Motion to continue to May 9.** (made by: Botticelli) (seconded by: Koseatac)
 Vote Carried 5-0

ZBA Minutes for April 11, 2019, adopted June 13

2. 06-19 Victor P. Haley 94 Orange Street Cohen
 Applicant is requesting relief by Special Permit pursuant to Nantucket Zoning By-law Section 139-33.A, to alter and expand a pre-existing nonconforming dwelling in order to build a 2 story addition. The existing ground cover will be expanded by approximately 194 sq. ft. as a result of the enclosure of an existing deck, yielding a total proposed ground cover ratio of 34% where 50% is allowed. While the expansion will result in a vertical extension of the setback intrusion on the north elevation, the structure will be no closer to the northerly lot line than existing. To the extent necessary, Applicant further seeks rescission of prior relief (ZBA File No.s 021-80 and 071-97) granted in connection with the now abandoned commercial 'guest house' use to recognize the exclusively residential uses upon the Locus. Locus, an undersized lot of record, is situated at 94 Orange Street, shown on Assessor's Map 55.1.4 as Parcel 47 and upon Plan File 51-P. Evidence of owner's title is recorded in Book 1456, Page 28 on file at the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).

Voting Toole, McCarthy, Botticelli, Koseatac, Thayer
 Alternates Mondani
 Recused None
 Documentation File with associated plans, photos and required documentation
 Representing Jay Maroney, Cohen & Cohen Law P.C.
 Steven Cohen, Cohen & Cohen Law P.C.
 Public None
 Discussion **Maroney** – Presented the request: change of use and remove non-conforming deck and build an addition inside the setback.
Toole – The 1985 Blackwell plan doesn't show the deck; asked when it was built.
Cohen – We're removing the deck; we aren't arguing to keep it, so its status is moot.
 Consensus has no concerns about the change of use.
Botticelli – It looks like the addition could be redesigned to be out of the setback; the proposal puts a lot more mass into the setback. Suggested continuing to get information on the deck.
Thayer – Agrees with Ms. Botticelli; there is plenty of room to build the addition, so it doesn't encroach.
Cohen – The finding under special permit is whether or not it is a substantial detriment; the neighbor on the side is not objecting.
Toole – This will be more detrimental by putting a structure closer to the property line and the neighbor. This could be done by right if the design were slightly changed.
Botticelli – The issue with the Board is the addition in the setback.
Cohen – Asked to continue to the next meeting.
 Motion **Motion to Continue to May 9, 2019.** (made by: Botticelli) (seconded by: Koseatac)
 Vote Carried 5-0

3. 07-19 Kathy Herdt Charron & Paul R. Charron, Trustees, Paul R. Charron 48 Walsh Street Trust & Kathy Herdt Charron
 48 Walsh Street Trust 48 Walsh Street Bracken
 Applicant is requesting relief by Special Permit pursuant to Zoning By-law Section 139-17(c)(7) to demolish and reconstruct a dwelling and place it on a new foundation in conformance with applicable building codes and FEMA regulations. The proposed height is 28.5'± above the minimum first floor elevation of 8'± for an average height of 32.3'± where 30' is maximum allowed pursuant to Section 139-17.A. The existing structure is nonconforming as to front and rear yard setbacks. The proposed structure will be sited so as to cure both the front and rear yard setback encroachments. Locus is situated at 48 Walsh Street, is shown on Assessor's Map 29 as Parcel 101 and as Lot 9 upon Land Court Plan 15800-F. Evidence of owners' title is registered on Certificate of Title No. 24495 at the Nantucket County District of the Land Court. The site is zoned Residential One (R-1).

Voting Toole, McCarthy, Botticelli, Koseatac, Thayer
 Alternates Mondani
 Recused None
 Documentation File with associated plans, photos and required documentation
 Representing Don Bracken, Bracken Engineering
 Public None
 Discussion **Bracken** – Proposed structure will meet all setback and flood code requirements; the height from 1st-floor to the peak is 28.5 feet with the first floor set above the flood zone. No proposed grade changes.
Toole – According to the bylaw, the height is measured from 8 inches below the top of foundation rather than from the finished 1st floor. The bylaw is unclear and should be changed. The rest all complies.
 Motion **Motion to Grant the relief as requested with no exterior construction between Memorial Day and Labor Day.**
 (made by: Thayer) (seconded by: McCarthy)
 Vote Carried 5-0

4. 08-19 Martin T. Long, Trustee, Martin T. Long Revocable Trust & Frances E. Long, Trustee, Frances E. Long Revocable Trust
100 Quidnet Road Glidden

REQUEST TO CONTINUE, WITHOUT OPENING, TO MAY 9, 2019

Applicant is requesting Special Permit relief pursuant to Zoning By-law Section 139-16.C(1) to reduce the 10' side yard setback to 5'. In the alternative, applicant requests relief pursuant to Section 139-16.C(2) to validate an unintentional setback intrusion not greater than 5' into a required yard and not closer than 4' from a lot line. Varying and discrepant plans show the structure to be either a compliant 10.4'± from the southerly side yard lot line or as close as 9'±. Locus is situated at 100 Quidnet Road, shown on Assessor's Map 21 as Parcel 73 and as Lot 40 upon Land Court Plan 8506-C. Evidence of owners' title is registered on Certificate of Title No. 23478 at the Nantucket County District of the Land Court. The site is zoned Residential Twenty (R-20).

Voting McCarthy (acting chair), Koseatac, Thayer, Mondani
 Alternates None
 Recused Toole, Botticelli
 Documentation File with associated plans, photos and required documentation
 Representing None
 Public None
 Discussion Not opened at this time.
 Motion **Motion to Continue to May 9, 2019.** GT (made by: Thayer) (seconded by: Koseatac)
 Vote Carried unanimously

IV. OLD BUSINESS

4. 20-18 Surfside Crossing, LLC Surfside Crossing 40B / Reade

The Locus is situated at 3, 5, 7 and 9 South Shore Road and is shown on Assessor's Map 67 as Parcels 336, 336.9, 336.8, and 336.7 and is shown as Lots 4, 3, 2, and 1 on Plan Book 25, Page 50 as recorded at the Nantucket Registry of Deeds. The total lot area of the combined parcels is approximately 13.5 acres. Evidence of owner's title is recorded in Book 1612, Page 62 at the Nantucket Registry of Deeds. The property is located in a Limited Use General 2 (LUG-2) and within the Public Wellhead Recharge District.

ORIGINAL APPLICATION: The Applicant is seeking a Comprehensive Permit in accordance with M.G.L. Chapter 40B, pursuant to a project eligibility letter issued by MassHousing, in order to allow a multi-family project consisting of 156 for-sale dwelling units comprised of 60 stand-alone single-family cottages on fee simple lots and 96 condominium units in 6 multi-family buildings, with 25% (39 units, 15 cottages and 24 condominium units) designated as affordable units, with a total of 389 bedrooms. The existing lots will be subdivided into 60 fee simple lots, 4 open space lots, and a 3.6-acre condominium lot. Off-street parking will consist of 2 spaces per cottage and 148 spaces designated for the condominiums. Infrastructure and amenities will be provided; however, the proposed project is proposed to connect to municipal water and sewer infrastructure.

MODIFIED PROPOSAL, previously under consideration:

A multi-family project consisting of 100 for-sale dwelling units comprised of 40 stand-alone single-family cottages on fee simple lots and 60 condominium units in 5 multi-family buildings, with 25% (25 units, 10 cottages and 15 condominium units) designated as affordable units, with a total of 285 bedrooms. The existing lots will be subdivided into 40 fee simple lots, a 3.3-acre condominium lot, a 0.5-acre community lot, and 2.8 acres of open space lots. A total of 244 parking spaces will be provide consisting of 80 off-street parking spaces (2 per cottage), 124 spaces for the condominiums, 20 spaces for the recreational community building, and 20 over-flow on street spaces. Infrastructure and amenities will be provided; however, the proposed project is designed to connect to municipal water and sewer infrastructure.

MODIFIED PROPOSAL, currently under consideration:

A multi-family project consisting of 92 for-sale dwelling units comprised of 44 stand-alone single-family cottages on fee simple lots, 40 multi-family condominium units in a mix of 8-unit and 4-unit buildings, and 8 units located in 4 duplex buildings, with 25% (23 units consisting of 11 single-family cottages, 10 condominium units, and 2 duplex units) designated as affordable units. Infrastructure and amenities will be provided; however, the proposed project is designed to connect to municipal water and sewer infrastructure.

Voting Toole, Botticelli, McCarthy, Koseatac, Mondani
 Alternates Thayer
 Documentation 40B Comprehensive Permit application documentation.
 Representing Paul Haverty, Blatman, Bobrowski & Haverty, LLC
 Don Bracken, Bracken Engineering, Inc.
 Chris Dallmus, Design Associates
 Marianne Hanley, Reade, Gullicksen, Hanley, & Gifford LLP
 Jamie Feeley, Cottage & Castle, Proponent
 Josh Posner, principal

- Public Paul Derensis, attorney for Nantucket Tipping point and 285 Island homeowners
Patrick Taaffe, 21 Okorwaw Drive
Linda Derensis, Nantucket Tipping Point
Susan Delacourt, 91 Hummock Pond
Mindy Levine, 10 Folger Avenue
Sean Perry, 14 South Shore Road
Emily Molden, Executive Director Nantucket Land Council (NLC)
Barbara Carboni, Counsel for NLC
Mary Beth Splaine, 11 South Shore Road
Diane Cabral, 8 South Shore Road
Jacques Zimicki, 3 Wherowhero Lane
Bob Lang, 7 Masaquet Avenue
Ron Bamber, 28 Washing Pond Road
- Discussion (1:42) **Toole** – The applicant has asked that the public hearing be closed today; in the interest of moving forward, there are constraints on the Board over the next three weeks. As a courtesy to finish this in an orderly manner, he asked the applicant to allow an additional 20 days to write up the decision.
Haverty – That isn't unusual and is not an unreasonable request; he's talked to his clients about it and they are willing to extend to the end of May; he will talk to them about extending it a full 20 days. This is not a leverage issue; it's an issue of wanting to see the conduct of the hearing to ascertain if we're in a situation where we're either at each other's throats or have a common ground. We see no value in continuing if the situation proves to be the former.
Toole – He doesn't understand the "leverage" issue; it sounds like they are saying they will extend if we are nice.
Haverty – Asked for an actual date to which to extend.
Toole – The 40 days is to May 20; adding 20 days would take it to June 7 (Friday) or June 10 (Monday).
Haverty – His client is willing to extend that time.
Pucci – Recommended a motion.
- Motion **Motion to Accept the extension for the Board to render a decision following closing of the public hearing up to and including Monday, June 10, 2019.** (made by: Botticelli) (seconded by: McCarthy)
- Vote Carried unanimously
Haverty – We've submitted a substantial amount of information pertaining to the 92-unit proposal. Reviewed submitted information. The applicant and the representatives for the Town are not on the same page regarding sewer connection. We've proposed a method of connecting to municipal sewer which we believe is appropriate; it is the position of the Town consultants to use the gravity line system. We have not done a full design of the gravity option because it is not our proposal and we don't see any benefit of extending the hearing to discuss the gravity design.
Toole – He sees no point in going into details on a plan we can't agree to. We will condition the sewer.
Consensus of the Board and Town Counsel agrees with Mr. Toole.
Haverty – We have no further presentation.
Toole – Reviewed the list of the waivers.
 - 139-7 no need to discuss
 - 139-12.B no waiver request
 - 139-16 density is 30% on the condo lot.
 - 139-19.B (1) & D plan 1 & B screen parking.**Toole** – Asked why they can't meet that requirement.
Bracken – It's not technically required; parking is interior to the lot. We don't need that waiver.
Pucci – They can change the request, but it has to be on the record.
Haverty – That waiver request can be stricken or vote no.
Toole – We can just vote no on this rather than take it out.
 - 139-20.1.B driveway access approval by the Department of Public Works (DPW).
 - 139-20.1.B(1) not more than one driveway access.**Bracken** – Lots 12-15 for duplex lots and Lot 11 is the condo.
 - 139-20.1.B(2)(f)[2] allow driveway width
 - 139-20.1.B(2)(g) on-site turnaround
 - 139-23 site plan review.**Toole** – Asked why they want a waiver from that.
Haverty – It's procedural; ZBA subsumes requirements so site plan approval isn't necessary.
Pucci – Recommends keeping it in and the Board deciding whether or not to approve it.
 - 139-26.C(1) Historic District Commission (HDC) Certificate of Appropriateness.
 - 139-28.B(2) Occupancy permit HDC inspection.**Toole** – In the past, we've asked the HDC employee to inspect the property to ensure compliance; we aren't going to do that.
Botticelli – It is about compliance of post-construction review.
Haverty – This is an administrative review of the final plans. We can't be required to go through a process over which HDC has discretionary approval. This Board is serving as the HDC.

Pucci – It will go to the Building Inspector.

Toole – HDC Staff gives us a report on compliance. The okay, or the check box goes to us at a regular meeting then send it on to the Building Department for the CO. They are requesting a waiver for the Building permit application fees on affordable units.

- Town of Nantucket, Comprehensive Permit Chapter 40B Regulation Section 3.01(i) to the extent that pre-conditions have not been met and to the extent legally acceptable

Toole – For him, “to the extent” is very open ended.

Haverty – At this stage, it is unnecessary and can be withdrawn.

Pucci – It is moot at this point and agrees with Mr. Haverty.

Miscellaneous Waivers

- HDC requirements All signage, skylights, rooflines under jurisdiction of HDC.

Toole – We accept the role per se but doesn’t have any information on signage.

Haverty – Again, the request is for the Board to act as the HDC on any information submitted.

- Board of Water and Sewer Commissioners

Pucci – ZBA will act as the local Board on this so will deny or grant with conditions.

- Nantucket Code Chapter 132 Trees and shrubs

Toole – He’s uncomfortable with “to the extent applicable.”

Haverty – This goes into procedural category and asking ZBA to act as local Board on all these procedural issues on information available in the record.

Toole – With a little more time, we’d have had someone to look at these in regards to the 92-unit plan.

Pucci – You will have to look at the record and render a decision; this is not procedural.

- Nantucket Code Chapter 102: Outdoor lighting

Toole – There is a much greater level of detail on these plans; now we have to either determine the extent applicable or say no waiver granted.

Haverty – We’ve submitted a lighting plan compliant with local guidelines. Ask that the ZBA issue them, not another Board. We will comply with the substantive requirements of the law, not the procedural.

- Nantucket Code Chapter 127: construction requiring opening of public way

Pucci – You’ll have to look at it provision by provision.

- Board of Health (BOH) Regulation 50.01: bedroom count

Toole – We had a discussion about what is determined to be a bedroom and what isn’t; this relates mostly to the basement and some ancillary rooms.

Bracken – BOH has several definitions on bedroom; we decided to show bedrooms as a number on the plan without detailing where they are.

Toole – Asked if the BOH method comes up with a different number.

Bracken – In the end, the bedroom count is about the same.

Pucci – By having “to the extent applicable”, it leaves them grounds to appeal. ZBA has to make a substantive determination based on information before them.

Rules and Regulations Governing the Subdivision of Land

- §2.03.c wetland boundaries
- §2.06.a(2) street network plan

Toole – Asked why the waiver.

Bracken – Subdivision regulations would require this.

Pucci – That is procedural

- §2.06.a(3) Form B application
- §2.06.a(6) Filing fee
- §2.06.a(8) proposed covenant or bond or accordance with §2.06.f

Bracken – The lots will be resold and guarantees construction is going toward the plan.

Pucci – He’ll provide recommendations.

- §2.06.a(11) site analysis report and map
- §2.06.b(4) placement of zoning information

Bracken – This relates to the zoning of the area which is currently LUG2. We don’t want to record this plan with LUG-2 information. That doesn’t apply to the 40B.

- §2.06.b(14) Landscape planning and size of streets
- §2.06.b(23) submission requirements relative to lot area requirements under zoning.

Pucci – Now you are getting into the substance of it, such as which lots will be waived from frontage requirements. Your decision will have conditions and the plan you approve will specify the lots where you are waiving the requirements.

Bracken – We specified a minimum of 50-foot frontage.

- §2.06.e Submission requirements center line of road.
- §3.01 Zoning compliance with zoning bylaw.
- §3.02 public open space.

Toole – There is public open space; asked why it’s being waived.

Haverty – The intent is to keep the space within private to those living there.

- §3.05 protect natural features “to the extent necessary”

Bracken – The regulation is very broad and up to interpretation.

- §3.06 one dwelling per lot.
- §3.10 alignment of existing street and access for emergency vehicles.

Thayer – Wants to know how it doesn’t conform.

Bracken – We have designed this for fire-truck access. There is no design master plan as related to the street network system.

- §4.02 Road points and parcel monumentation.

Bracken – The plans shows concrete bounds and markers to establish the right-of way in the roads and all the curves and roundings.

Toole – The plan has the roadway points and they will be monumented; right now, it does not show that.

- §4.03 width of roads to 30 feet for minor road.

Bracken – This applies to two roads; these two roads won’t have sidewalks.

- §4.09 4-foot shoulders

Toole – This is being withdrawn. Asked what happens if for example the shoulders aren’t 4-feet wide.

Pucci – You specify which waivers are granted. Then you have a catchall provision that all others must be met.

- §4.16 landscape requirement to plant new trees “to the extent necessary” to comply with the landscaping plan.

Bracken – There is an extensive landscaping plan provided and includes a planting plan.

- §4.18 sidewalks on both sides of the roadway.

Toole – He assumes the landscape plan calls out the materials. We can condition this.

- §4.19 requiring bicycle paths
- §4.20 street lights

Bracken – There are street lights on the plan; the waiver isn’t required.

- §4.21 bridges
- §4.24 driveway aprons

Toole – The waiver will not be required. If there are questions for additional information, that should be asked now while the applicant may still speak to things.

P.Derensis – Says this should be denied because there are no conditions that would make this work for the Island. You have 112 letters from the community asking this be denied. The defeat of roadwork at the ballot shows where the community stands. The Board has gotten a lot of pro-development advice; he feels there is sufficient grounds to uphold the denial. If this project is approved, Tipping Point will sue the Board. The latest letter of Weston & Sampson says that what is proposed, doesn’t work; the developer has said they don’t want to do what the Town is asking. There is the water issue regarding stormwater; conditions as proposed by John Chessia, in his opinion, are inadequate. There are still environmental issues not addressed, no traffic solutions, insufficient infrastructure. The restrictions that some units will be for Islanders; Tucker Holland in his letter indicates that won’t work. We submitted into the record the pro forma we obtained by public records request showing they will make a profit of about \$24M; with profits like that, there is no way this project could be rendered uneconomic. Based upon these reasons, the ZBA should deny the project.

Bracken – Chessia report was submitted. We dug 7 test pits and are confident we know the soil conditions and the groundwater at the site.

Taaffe – He read the W&S letter; it talks about how much information isn’t included and how fragile the Town sewer mains are. If this goes forward and there is another catastrophic failure, would the applicant have any responsibility for that failure for not going with a gravity line. Asked that the project be denied.

L.Derensis – She has asked many questions that haven’t been answered. The Town asked for an invasive species study, which the applicant refused. Our infrastructure can’t take a 92-unit subdivision; this is bigger than we can handle. At some point Nantucket will have to say “enough.” Asked that the project be denied.

Delacort – She doesn’t understand why this application wasn’t put off until all information was complete; why is this different from other permit requests where incomplete applications are turned away. Asked that this be denied for all the reasons stated. Asked that a number of waivers not be granted.

Levine – At previous meeting she heard fire trucks couldn’t turn. The affordable units are more expensive per foot than market houses. People who live here will have to pay to increase the sewer and water to accommodate the high-density housing that isn’t here yet. There are people who live here now and haven’t been hooked up yet.

S.Perry – Asked the Board deny all waivers that this be held to minimum community standards and listen to department heads and advisors that this is not feasible.

Levine – Asked if the State would consider all the letters against the project.

Pucci – The Housing Appeals Committee (HAC) will look at whatever material is submitted by the parties involved in the appeal.

Molden – We’ve submitted a final comment letter; a specific request is if the Board issues the request, include a requirement that all issues pertaining to endangered species habitat be resolved. Chessia indicated it would be appropriate with Massachusetts Natural Heritage to finish their process.

Carboni – Based upon her experiences on 40B projects, the Board has authority to deny this or impose whatever conditions necessary; that includes all subjects and concerns brought up.

Splaine – The traffic study looked at traffic at the intersection north of the project but did not address the traffic south of the project; South Shore Road is a dead-end street with one egress at Surfside Road. The number of cars from this project puts the residents south of this at risk, especially the residents at Sherburne Commons. This is too much. Our well is 10 feet from the southern border.

D.Cabral – Safety is her biggest issue: the one-way egress, our clean wells, pressure for hydrants. She wants to hear from the Fire Chief. We are in a heavily wooded area and fire is a potential danger.

Zimicki – He can't see how this project passes stormwater standards. Toward the well-head recharge area, any system proposed by the developer appears to fail to protect that. He's concerned about pollution of his well.

Lang – He walks to the bus stop at Fairgrounds and Surfside and observed the off-season traffic. His concern is for the safety of pedestrians and cyclists using that intersection. He feels the various traffic studies have failed to address the number of people who need to cross that street. Asked for a denial.

Carboni – The applicant is asking for plan waiver; without that, there is no way to know to what extent they don't comply; urged denial of the plan waiver.

Deputy Fire Chief Robert Bates – Submitted a letter addressing concerns of the original layout. Looking at this plan, he has concerns about parking, going around the circle, requested minimum of 20-foot roadways with traveling space, with no on-street parking, trees and vegetation because we had no access to some buildings. He doesn't know of their ability to get their vehicles around the rear curve or access the side road without looking closer at the plan. We can't get multiple emergency vehicles in front of many of these homes or down the side streets; Condo parking limits us. We asked for final fire access plan 527 CMR 23.1 for approval. We haven't seen a hydrant layout and would have to defer to Wannacomet Water Company; it's the same system that feeds the hospital and schools. We need water to fight a fire; the initial apartment buildings were quite large. We have limited manpower.

Bamber – Asked this be denied. 40Bs should never have been allowed. This project will destroy this beautiful historic island.

Haverty – Appreciates what the Board has done with a contentious project.

Toole – We will start the next step, deliberation, with the information we have. The applicant doesn't want to continue the public hearing. Once the hearing is closed, there is no further public or applicant participation.

McCarthy – She's concerned the Fire Department has not had adequate time to review this plan. Asked why that information wasn't provided; it's a disservice to the resident.

Haverty – NFD will be provided the plans they require.

Toole – Asked if the applicant would consider keeping the date for rendering the decision for the 10th and extend the hearing for one more meeting to allow input from Town departments.

Haverty – His client feels now is the appropriate time to close the hearing.

Pucci – They could agree certain information be submitted. Identify the entities.

Haverty – We don't have a problem with the NFD submitting the required report.

Toole – Fire Department access and water for fighting fires.

P.Derensis – Objects; requested that the public should be able to review the reports; they are being cut out.

Pucci – Accept the applicant assent, irrespective of Mr. Derensis' objection.

Motion to Close the Public Hearing at the insistence of the applicant. (made by: Toole) (seconded by: Botticelli)
Carried 5-0

Toole – Scheduling the deliberation meeting, Friday, May 10th at 2 p.m. He doesn't anticipate this will be the only meeting.

Antonietti – The week of June 10th, this room is booked. She will not be available next Friday.

Pucci – That is when the decision needs to be filed.

Toole – The first meeting will be Friday, April 19th at 1 p.m. with the next meeting on May 10th at 2 p.m.

Motion
Vote

V. OTHER BUSINESS

- 1. Item

VI. ADJOURNMENT

Motion to Adjourn at 3:57 p.m. (made by: Koseatac) (seconded by: Thayer) Carried unanimously

Sources used during the meeting not found in the files or on the Town website:

- 1. None

Submitted by:
Terry L. Norton