



# ZONING BOARD OF APPEALS

2 Fairgrounds Road  
Nantucket, Massachusetts 02554  
[www.nantucket-ma.gov](http://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, May 9, 2019**

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

Called to order at 1:09 p.m. and Announcements made.

Staff in attendance: Eleanor Antonietti, Zoning Administrator; T. Norton, Town Minutes Taker  
Attending Members: Toole, McCarthy, Botticelli, O'Mara, Koseatac, Poor, Thayer, Mondani  
Absent: None  
Late Arrivals: None  
Early Departures: None

Agenda adopted by unanimous consent

### I. APPROVAL OF MINUTES

1. April 11, 2019: Hold for June 13, by unanimous consent.

### II. OLD BUSINESS

1. 76-11 Sachems Path Nantucket, LLC Sachems Path 40B  
Vote to release \$50,000 Landscape Security Escrow being held by the Town pursuant to Massachusetts General Laws, Chapter 41, Section 81U (¶7)(2), and as required by Condition F.4(g) of the Comprehensive Permit, as amended and restated.

Voting Toole, McCarthy, Botticelli, O'Mara, Koseatac  
Alternates Poor, Thayer, Mondani  
Recused None  
Documentation File with associated plans, photos and required documentation  
Representing Ed Pesce, Pesce Engineering  
Public None  
Discussion (1:10) **Pesce** – This request is for release of part of the \$50,000 landscape security escrow. They are down to a couple of landscaping items, which value approximately \$7,500. He'll be able to conduct a final inspection in a couple of months. Recommended releasing up to \$41,000. One item not complete and out of their hands is the takeover of the sewer pump station by the Town. Incomplete landscaping items are replacement of trees that died, some grading, and repair of some erosion near drainage. The loss of the trees was not abnormal; there was evidence of deer eating vegetation.  
**Toole** – He would want to incentivize them with more than 20%. Asked if they adhered to the planting plan regarding the caliper of the trees.  
**Pesce** – Yes, they did for the most part; they are in substantial compliance with the Comprehensive Permit.  
**Toole** – We never came up with a methodology for protecting the sewer easement.  
**Pesce** – It is well delineated, and no construction is over it. He had requests to put a fence over it.  
**Antonietti** – David Gray, Sewer Director, said no to fences over the sewer easement.  
**Toole** – He has no problem with releasing some of the money. Asked the Board's opinion.  
**Pesce** – He will inspect the newly planted trees in the fall. The trees have a 1-year warrantee and the landscaper has been honoring that.

**Antonietti** – You can make a motion to release the balance in the fall once it is ascertained they are in compliance. Discussion on the amount of money to release - \$12,500. For public/common land.

Motion **Motion to Release \$37,500 with the balance to be released upon completion of work and confirmation of compliance with the Comprehensive Permit.** (made by: Botticelli) (seconded by: O'Mara)

- Vote Carried 5-0  
2. 23-18 Adam Ross and Emma Ross 50 Okorwaw Avenue Beaudette

### REQUEST TO CONTINUE, WITHOUT OPENING, TO JUNE 13, 2019

Voting Toole, McCarthy, Botticelli, O'Mara, Mondani  
Alternates Poor, Thayer  
Recused None  
Documentation File with associated plans, photos and required documentation  
Representing None  
Public None

Discussion **Antonietti** – This is on the Select Board agenda for May 22.  
 Motion **Motion to Continue.** (made by: Botticelli) (seconded by: O’Mara)  
 Vote Carried 5-0

3. 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 None  
 Public None  
 Discussion (1:31) **Antonietti** – Steven Cohen, Cohen & Cohen Law P.C. has asked to continue this to work out issues.  
 Motion **Motion to Continue to June 13 at applicant’s request.** (made by: Botticelli) (seconded by: O’Mara)  
 Vote Carried Unanimously

**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 WITHDRAW WITHOUT PREJUDICE**

Voting McCarthy, Botticelli, O’Mara, Koseatac, Poor  
 Alternates Thayer, Mondani  
 Recused Toole  
 Documentation File with associated plans, photos and required documentation  
 Representing Sarah Alger, Sarah F. Alger P.C.  
 Public None  
 Discussion (1:32) **Alger** – Asked this be withdrawn.  
 Motion **Motion to Approve the withdrawal without prejudice.** (made by: Botticelli) (seconded by: O’Mara)  
 Vote Carried 5-0

2. 08-19 Martin T. Long, Trustee, Martin T. Long Revocable Trust & Frances E. Long, Trustee, Frances E. Long Revocable Trust  
 100 Quidnet Road Glidden

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 13916.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, Koseatac, Poor, Thayer, Mondani  
 Alternates None  
 Recused Toole, Botticelli, O’Mara  
 Documentation File with associated plans, photos and required documentation  
 Representing Richard Glidden, Glidden & Glidden  
 Public None  
 Discussion (1:33) **Glidden** – Explained what lead to the setback intrusion.  
**Antonietti** – Relief has been granted in similar situations. You can say “reduce setback to 5 feet” if you choose. There was a period of time when there were compilation plans, which aren’t as reliable; that could be a consideration.  
**Glidden** – There is a 1945 Land Court plan and a 1980 plan for this lot. We don’t need the relief to go to five feet; you could reference reducing the setback to 9 feet for the northerly property line; no additional construction will occur without coming back to the ZBA.  
 Motion **Motion to Grant relief of 9 feet on the northwesterly corner of the dwelling with no further relief.** (made by: Koseatac) (seconded by: Thayer)  
 Vote Carried unanimously

3. 09-19 Andres J. Recoder & Isabelle Schiavi 22 Bassett Road Brescher  
 Applicant is requesting relief by Special Permit pursuant to Zoning By-law Section 139-33.A, to allow an extension, alteration, or change in the pre-existing nonconforming ground cover. The property, improved with two dwellings and a barn, is also pre-existing nonconforming as to frontage and setback. To the extent necessary, Applicant seeks to modify relief granted to prior owner in 2002 (ZBA File No. 064-02) which permitted a ground cover of up to 6,539 SF for a Ground Cover Ratio (“GCR”) of 5.13% where maximum allowed is 3% of the lot area of 127,414± SF. However, when the work authorized in part by the 2002 Special Permit was completed, the resulting overall ground cover was less than that proposed. Therefore, the existing nonconforming ground cover is 6,207± SF, for a GCR of roughly 4.9%. Applicant proposes to enlarge one of the dwellings which will result in a net increase of 257± SF for an overall ground cover of 6,464± SF or a GCR of 5.07%. Locus is situated at 22 Bassett Road, shown on Assessor’s Map 26 as Parcel 46 and upon Land Court Plan 37002-A. Evidence of owners’ title is registered on Certificate of Title No. 21554 at the Nantucket County District of the Land Court. The site is zoned Limited Use General Three (LUG-3).

Voting Toole, McCarthy, Botticelli, O’Mara, Koseatac  
 Alternates Poor, Thayer, Mondani  
 Recused None  
 Documentation File with associated plans, photos and required documentation  
 Representing Richard Glidden, Glidden & Glidden  
 Public None

Discussion (1:42) **Glidden** – Since the screened-in porch will result in less groundcover than the decision allowed, the builder thought he could go ahead and make the change without seeking an amendment to the special permit. They were approved for 5.13%; they are requesting a reduction to 5.07%. The 2/27 plan shows the addition and proposed screened-in porch; now, that porch will not be screened in so doesn’t count as ground cover.  
**Antonietti** – Marcus Silverstein, Zoning Enforcement Officer, issued a violation for work performed without a permit. Some of the work has been done but not the work from the original special permit. Explained why Mr. Silverstein ruled the permit had expired.  
**Glidden** – Asked for a continuance to allow him to speak with Mr. Silverstein for clarification.

Motion **Motion to Continue to June 13 at applicant’s request.** (made by: O’Mara) (seconded by: Koseatac)  
 Vote Carried Unanimously

4. 12-19 Nantucket Point of View, LLC (Owner); Christopher F. McCausland & Elizabeth J. McCausland, Trustees, Eleven Lincoln Avenue Trust; Peter McCausland & Bonnie F. McCausland, Trustees, Seven Doors Nominee Trust; Peter McCausland & Bonnie F. McCausland, Trustees, Pug Cottage Nominee Trust (Appellants) 9 Lincoln Avenue Cohen  
 Appellants bring an appeal of a decision by the Building Commissioner, pursuant to Zoning By-law Sections 139-29.E(1) and 139-31. Specifically, Appellants request that the Zoning Board of Appeals overturn the determination of the Building Commissioner in his refusal to revoke Building Permit No. 1868-18 for the construction of a pool at 9 Lincoln Avenue. Appellants had requested such revocation pursuant to Section 139-26.F on the basis that the Building Permit was issued under false or misrepresented facts, as the application did not disclose that the required Certificate of Appropriateness (COA No. 71235) was under appeal. Locus is situated at 9 Lincoln Avenue, shown on Assessor’s Map 30 as Parcel 137, as Lots 3 and 4 upon Land Court Plan 14438-C and upon Land Court Plan LCP 43204A. Evidence of owner’s title is registered on Certificate of Title No. 26591 at the Nantucket County District of the Land Court. The site is zoned Residential One (R-1).

Voting Toole, McCarthy, O’Mara, Koseatac, Thayer  
 Alternates Poor, Mondani  
 Recused Botticelli  
 Documentation File with associated plans, photos and required documentation  
 Representing Steven Cohen, Cohen & Cohen Law P.C.  
 Public None

Discussion (1:57) **Cohen** – Asked for withdrawal without prejudice.  
 Motion **Motion to Approve withdrawal without prejudice.** (made by: Koseatac) (seconded by: McCarthy)  
 Vote Carried 5-0

5. 11-19 Cynthia M. Cassano, Trustee, Doris Murray Trust (Owner) and Randolph G. Sharp, Jr., Trustee, Randolph G. Sharp, Jr. Trust (Applicant) 76 Polpis Road Cohen  
 Applicant is requesting relief by Special Permit pursuant to Zoning By-law Section 139-33(A)4 in order to demolish a pre-existing nonconforming structure having 2,293± SF for a ground cover ratio of 3.6% where 3.0% is allowed, and to replace it with a new structure that retains the nonconforming ground cover ratio. Locus is situated at 76 Polpis Road, shown on Assessor’s Map 43 as Parcel 177 and as Lot 2 upon Plan Book 19, Page 126. Evidence of owner’s title is recorded in Book 1496, Page 192 on file at the Nantucket County Registry of Deeds. The site is zoned Limit Use General-3 (LUG-3).

Voting Toole, McCarthy, Botticelli, O’Mara, Koseatac  
 Alternates Poor, Thayer, Mondani  
 Recused None  
 Documentation File with associated plans, photos and required documentation  
 Representing Steven Cohen, Cohen & Cohen Law P.C.  
 Public None

ZBA Minutes for May 9, 2019, adopted June 13

Discussion (1:59) **Cohen** – Explained the reason for the request for special permit. They are working on a plan for a new structure to be submitted to the Historic District Commission.

Motion **Motion to Approve the special permit as requested.** (made by: Botticelli) (seconded by: Koseatac)

Vote Carried 5-0

6. 13-19 David J. Murphy, Trustee, 262 Polpis Nom. Tr. 262 Polpis Road Cohen

Applicant is requesting relief by Special Permit pursuant to Zoning By-law Section 139-33.A(1) to alter a nonconforming use (third dwelling) by demolishing a pre-existing nonconforming third dwelling and replacing it with a new nonconforming third dwelling. The existing structure is a two-bedroom dwelling with 1,176± SF of ground cover, and the replacement structure is proposed to be three bedrooms with 1,700± SF of ground cover. The Locus is otherwise conforming to the provisions of the By-law. Locus is situated at 262 Polpis Road, shown on Assessor’s Map 25 as Parcel 1, and as Lots 3, 4, and 5 upon Land Court Plan 11931-C. Evidence of owner’s title is registered on Certificate of Title No. 27117 at the Nantucket County District of the Land Court. The site is zoned Limit Use General-3 (LUG-3).

Voting Toole, McCarthy, Botticelli, O’Mara, Koseatac

Alternates Poor, Thayer, Mondani

Recused None

Documentation File with associated plans, photos and required documentation

Representing Steven Cohen, Cohen & Cohen Law P.C.

Public None

Discussion (2:04) **Cohen** – Explained the reason for the request.

**Antonietti** – The abutter wants to ensure the new structure is not visible from her home.

**Toole** – He has no issues with this.

Motion **Motion to Grant the relief as requested.** (made by: Botticelli) (seconded by: O’Mara)

Vote Carried 5-0

7. 10-19 Rock D. Gonnella, Trustee, North Nom. Tr. 73 Easton St. Nathan Barber

Applicant is requesting relief by Variance pursuant to Zoning By-law Section 139-32 for a waiver from the 5’ side yard setback provision in Section 139-16 in order to validate the placement of an outdoor shower, a portion of which is sited as close as 2.4’ from the easterly lot line. Locus is otherwise dimensionally conforming to the provisions of the Zoning By-law. Locus is situated at 73 Easton Street, is shown on Assessor’s Map 42.4.1 as Parcel 109 and as Lot 5 upon Plan No. 03-57. Evidence of owner’s title is recorded in Book 1343, Page 84 on file at the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).

Voting Toole, McCarthy, Botticelli, O’Mara, Koseatac

Alternates Poor, Thayer, Mondani

Recused None

Documentation File with associated plans, photos and required documentation

Representing None

Public None

Discussion (2:10) None

Motion **Motion to Continue to June 13 without opening.** (made by: Botticelli) (seconded by: Koseatac)

Vote Carried 5-0

**IV. OTHER BUSINESS**

1. None

**V. ADJOURNMENT**

**Motion to Adjourn at 2:11 p.m.** (made by: Thayer) (seconded by: Botticelli) Carried unanimously

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

1. None

Submitted by:

Terry L. Norton