



TOWN OF NANTUCKET BOARD OF APPEALS NANTUCKET, MA 02554

Minutes
Thursday, June 12, 2008
1:00 PM
2 Fairgrounds Road

Board Members in attendance: Michael J. O'Mara, David Wiley, Dale Waine, Burr Tupper, Lisa Botticelli, and Edward Toole.

Staff: John Brescher, Leslie Snell, Venessa Moore

I. Call to Order:

Chairman Michael O'Mara called the meeting to order at 1:05 P.M.

II. Approval of the Minutes:

A motion was made to approve the Minutes (Koseatac) (May 9, 2008 and May 19, 2008), duly seconded, and voted 5-0 in favor.

III. Other Business:

- Variance Extension – Nantucket Dave St., LLC

Attorney Bill Hunter spoke on behalf of the applicant. Attorney Hunter explained that although the applicant had received relief from the ZBA last summer, the applicant is requesting a time extension for his variance.

Attorney Hunter stated that there have been additional factors in beginning the construction such as adding an elevator for handicap access. Due to these circumstances, the applicant requires a variance extension.

The requested extension does not require a public hearing; but, it does require a formal vote by the Board of Appeals to grant the requested six month extension.

A motion was made (Koseatac) and duly seconded to approve the requested extension. The vote was 5-0 in favor.

- Modification of Driveway in Abrem Quarry
 - 1 Field Ave. – Wilson
 - 2 Kinikinnik Way – Francis

Geoff Thayer, a representative of Toscana Corporation, spoke and explained that the proposed inflated bladder system will essentially raise the dwellings from the surface.

Burr Tupper suggested that the neighbors have an opportunity to view this information prior to the next meeting.

A motion was made (Koseatac) and duly seconded to continue the application to the July 11th meeting. The vote was 5-0 in favor.

- 027-08 Keane and Montgomery 4 East Chestnut St. Dale
Action Deadline August 7, 2008.

Attorney Kevin Dale spoke on behalf of the applicant.

Attorney Dale reminded the Board that despite the proposed change in use, there will be no increase in any ground cover. The basement and first floor will be used for the restaurant and the kitchen. The second floor will contain three bedrooms and a living area. The third floor will contain one bedroom, a kitchen, and an office.

Attorney Dale informed the Board that the required loading zone will come from the loading zone at the Dreamland.

A motion was made (Wiley) and duly seconded to approve the application with the conditions that the restaurant maintains 38 seats inside, 18 seats outside, and no more than 8 people occupy the bedrooms.

V. New Business

- 032-08 Long 5 Bartlett Farm Rd Self
Action Deadline September 10, 2008.

The applicant withdrew the application. As the application was already noticed, the Board needed to vote to formalize the withdrawal.

A motion was made (Toole) and duly seconded to withdraw the application. The vote was 5-0 in favor.

- 033-08 Tetawkimmo Comm. Assoc. Tr. Barnard Valley Rd. Philbrick
Action Deadline September 10, 2008.
- 034-08 Longfin, LLC Barnard Valley Rd. Hunter
Action Deadline September 10, 2008.
- 035-08 Longfin, LLC Barnard Valley Rd. Hunter
Action Deadline September 10, 2008.

The Board and the applicants agreed to have the two appeals and the application heard simultaneously.

Zoning Enforcement Officer Marcus Silverstein explained that he cited Holdgate Partners for various reasons, including the use of the garage without the use of a Special Permit. Mr. Silverstein also contended that the crux of the appeals was the level of expansion of the burrow pit.

Attorney Melissa Philbrick spoke on behalf of the Tetawkimmo appellants. Attorney Philbrick acquiesced that the neighbors, the appellants, were aware of the location of the burrow pit and the existing business when the neighbors purchased their homes. However, with the introduction of a new stone crushing machine, the noise and dust has increased. The appellants assert that any expansion of use requires Special Permit relief as there is a controlling Special Permit dictating the scope of the business.

Attorney Bill Hunter represented the appellants and the applicants, Holdgate Partners d/b/a Longfin, LLC. Attorney Hunter contended that the "Powers" determined whether or not there was an impermissible expansion.

Attorney Hunter also provided the Board with a brief history of the locus and mentioned that the applicants have attempted to talk with the neighbors to come to an amicable solution.

Kerim Koseatac asked if there was an incinerator on the premises. Michael O'Mara then asked if there was any work done on Sundays, and if there was, there should not be.

An abutter, Tom Brizett, spoke. Mr. Brizett introduced himself as the president of the Tetawkimmo Homeowner's Association. Mr. Brizett questioned the accuracy of the extent of the activity existing at the locus. Mr. Brizett's contention is that the activity has increased and the radio tower, which is the basis of the requested special permit, is not the same size as what had previously existed.

Carolyn Durand and Ben Champoux, as abutters, spoke against the application. Ms. Durand and Mr. Champoux questioned the change in the intensity and the increase in lighting and noise.

Michael Tuchet, as an abutter, spoke against the application. Mr. Tuchet was concerned that the applicants are bringing in excess loam. Mr. Tuchet also recommended the applicant consider dust control and noise abatement.

Phil Rogoff, as an abutter, echoed the concerns of his neighbors and questioned the increase in dust, noise, and the hours of operation of the business.

Michael West, as an abutter, also questioned the time of operation and the machines used.

Cormac Collier, representing the Nantucket Land Council, questioned whether or not the pit was located in the Wellhead Recharge District and that the Board of Health may need to weigh in on this matter and that the DEP would need to grant certain permits. Mr. Collier also recommended a site plan review for this particular application. Finally, Mr. Collier expressed concern regarding the repair work at the garage site and the potential environmental impact.

Lianne Swain, as an abutter, spoke against the application. Ms. Swain explained that although the neighbors were aware of the location of the burrow pit and the nature of the business, the level of noise and dust has increased dramatically during the last three years.

The Board recommended conducting a site visit to better understand the neighbors' concerns.

A motion was made (Waine) and duly seconded to continue the application to the July 11th meeting. The vote was 5-0 in favor.

▪ 037-08 Bengloff, Tr. 137 Polpis Road Rowland
Action Deadline September 10, 2008.

Attorney Arthur Reade and Mickey Rowland spoke on behalf of the applicant.

The applicant was under the impression that his lot was a lot of record and therefore constructed a deck in the setback. If the lot is determined to be a lot of record, then the deck is not located in the setback. However, as the lot in question is not a lot of record, zoning relief is required.

Ed Toole questioned who made the mistake in determining whether or not the lot was a lot of record.

Staff explained that during a town meeting rezoning, the zoning district for the lot in question changed.

A motion was made (Tupper) and duly seconded with the condition that no change or alteration be made to the deck without prior approval from the Zoning Board. The vote was 4-1 in favor (Toole opposed).

- 038-08 Cohen, Tr. 22 Appleton Road Cohen
Action Deadline September 10, 2008.

Attorney Steven Cohen represented the applicant.

Attorney Cohen explained that the applicant is proposing light carpentry and not an on-going mill shop. The applicant, Kerim McClusky, indicated that he did not require any air conditioning because of a ventilation system he uses and the concrete floors.

Michael O'Mara explained to the applicant that approval was contingent upon installing an air conditioning system in order to keep the windows and doors shut when the applicant uses the wood shop.

An abutter, Brian Puff, was concerned with the amount of traffic that may result from this change in use.

The applicant and his counsel assured the abutter that there would be significantly less traffic than the previous business due to the nature of the proposed change in use.

A motion was made (Waine) and duly seconded to approve the application with the conditions that the hours of operation be 7:30 am to 6:30 pm, no work on Sunday, no exterior storage, no more than three commercial vehicles on site, an air conditioning unit be installed, and that the doors and windows of the shop remain closed while in use. The vote was 5-0 in favor.

- 039-08 Cooney 3 Willard Street McCarthy
Action Deadline September 10, 2008.

Attorney Susan McCarthy spoke on behalf of the applicant.

Attorney McCarthy explained that the setback intrusion was due to a contractor's error.

Attorney Arthur Reade represented the contractor in question and stated that the contractor used a survey and was under the impression that there were no setback errors.

A motion was made (Waine) and duly seconded to approve the application. The vote was 5-0 in favor.

- **040-08 Offshore Beach, LP** **30 N. Beach Street** **Harootunian**
Action Deadline September 10, 2008.

Charles Harootunian spoke on behalf of the applicant.

Mr. Harootunian explained that there will be no exterior construction as the resort will be constructing an exercise room in an existing storage area. The exercise room will only be available for guests and employees of the Inn.

A motion was made (Koseatac) and duly seconded to approve the application. The vote was 5-0 in favor.

- **041-08 Alger, Tr.** **82 Easton Street** **Alger**
Action Deadline September 10, 2008.

Attorney Sarah Alger spoke on behalf of the applicant.

Attorney Alger explained that the applicant is requesting to modify the previously granted Special Permit in order to construct a studio above the garage. There will be no increase in ground cover or setback intrusion.

A motion was made (Waine) and duly seconded with the condition that there shall be no exterior construction from June 15th through September 15th. The vote was 5-0 in favor.

VI. Adjournment

A motion was made (Wiley) and duly seconded to adjourn the meeting at 4:30 P.M.