



TOWN OF NANTUCKET BOARD OF APPEALS NANTUCKET, MA 02554

Minutes
Friday, July 11, 2008
1:00 PM
2 Fairgrounds Road

Board Members in attendance: Michael J. O'Mara, Dale Waine, Burr Tupper, Kerim Koseatac, Lisa Botticelli, Edward Toole, Mark Poor, and Carol Cross.

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. Elections

Michael J. O'Mara was elected Chairman, Dale Waine was elected Vice Chairman, and Lisa Botticelli was elected Clerk.

III. Approval of the Minutes:

A motion was made to approve the Minutes (Koseatac) (June 12, 2008), duly seconded, and voted 5-0 in favor.

IV. Other Business:

- Modification of Driveway in Abrem Quarry
 - 3 Kinikinnik Way – Buckley

The applicant requested to modify the configuration of his driveway to create two side by side spaces from the existing configuration of two stacked spaces.

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

V. Old Business

- **085-06 Reis 80 Miacomet Avenue Reade C**
Action Deadline September 26, 2008. Continued to September 12, 2008
- **030-07 Burnham 12½ Sherburne Turnpike Reade C**
Action Deadline September 26, 2008. Continued to September 12, 2008

- 054-07 Nantucket Hunt. Assoc. Madequesham Valley Road Zieff
Action Deadline July 31, 2008.

The applicant requested to have the application withdrawn because one of the Board members sitting on this application had resigned. A motion was made (Waine) and duly seconded to allow the applicant to withdraw without prejudice. The vote was 4-0 in favor.

- 087-07 Barrett 21 Somerset Road Cohen
Action Deadline September 30, 2008.

Attorney Steven Cohen spoke on behalf of the applicants.

Attorney Cohen updated the Board and explained that the applicants had tried to work on a land swap with the Town; but, the negotiations have stopped. In an effort to work with the neighbors, the applicants are proposing to scale back some of the work done on the site so to mimic the level of activity that was done on site during the 1970's.

Attorney Cohen commented that the most prevalent issue seems to be the noise. The applicants are proposing to still use a portion of the yard for fill and use a portion for other uses such as masonry supplies and more appropriate uses.

Attorney Cohen suggested that the amount of space for gravel and sand be reduced from 4000 sq. feet to 1100 sq. feet. Attorney Cohen also proposed that the applicants will abandon any retail sales; but, continue to have buses, masonry, and auto-body work. Attorney Cohen indicated the applicants were also considering restricting the hours of operation.

Dale Waine asked if there was any proposed site plan at this time. Steven Cohen indicated that there was not because he was looking for feedback prior to obtaining a site plan.

Michael O'Mara and Dale Waine both expressed concern regarding the hours of delivery and hours of operation.

Burr Tupper questioned whether or not there was daily trucking.

Dale Waine asked the applicants if they may want to consider different hours of operation for the summer months.

Charles Butler, as an abutter, spoke against the application. Mr. Butler asked the Board to consider what uses existed on the property prior to 1972. Additionally, Mr. Butler expressed concern that the applicants will not follow the conditions.

Mary Soffel, as an abutter, spoke against the application. Ms. Soffel informed the Board that there was considerable noise from the backhoe and the noise was not appropriate for the neighborhood. She also indicated that there has been little to no contact between the Barrett's and the neighbors.

John Stanton, as an abutter, spoke against the application. Mr. Stanton stated that he was concerned with the expansion of the business.

Peter Boyce, as an abutter, spoke against the application. Mr. Boyce stated that construction materials should not be in a yard in a residential neighborhood. Mr. Boyce also expressed concern that the property was in a well-head recharge district.

Attorney Melissa Philbrick, representing some of the abutters, showed the Board a 1973 aerial photograph as an example of the amount of business that existed. Ms. Philbrick explained that the neighborhood was trying to work with the applicants to come to some resolution; but, there has not been much progress. Attorney Philbrick stated that one of her concerns is how the decision will take into account any future expansion of the business.

Kerim Koseatac stated that he had an issue with the type of materials stored on site.

Dale Waine stated that prior to the next meeting, he would like exact number regarding the number of bins, the number of trucks, the times and uses of the activity on the site, and he strongly recommended the applicants work with the neighbors.

Andrea Lamb, as an abutter, stated that there was never trucking before and only recently has the noise become unbearable.

Maryanne Stanton, as an abutter, stated that the neighborhood has not in fact grown up around the Barretts.

A motion was made (Waine) and duly seconded to continue the application to the August meeting. The vote was 4-0 in favor.

- 023-08 Spring 339 Polpis Road Spring C
Action Deadline October 31, 2008. Continued to August 8, 2008.
- 108-07 Hammer 6 King Street Cohen
Action Deadline August 31, 2008.

Attorney Steven Cohen spoke on behalf of the applicants.

Attorney Cohen addressed the list of conditions proposed by the neighbors. While he agreed with some of them, he considered others to be overreaching. Attorney Cohen stated that the neighbors were proposing less work in a less obtrusive way. Attorney Cohen stated that the process will be cumbersome; but, the end result is the legal standard the Board must consider.

Ted Burnham, an engineer contracted by the abutters, spoke. Mr. Burnham took the opportunity to point out the discrepancies between the submitted work plan and the work described in his July 3rd letter. Mr. Burnham explained that the mechanical pit will be closer to the center, there will be no room on the property to park, there will be significant excavation, there is a concern with getting too close to the angle of repose, there will be a need to have heavy equipment on the property, and the abutters will lose half a day of electricity.

The Board asked Mr. Burnham if the project could be completed. Mr. Burnham responded that, from an engineering standpoint, any project can be completed.

Attorney Alison Zieff, representing Brace and Mimi Young, spoke against the application. Attorney Zieff informed the Board that Mimi Young lives in Siasconset year round and will be affected by the on-going construction. Due to Ms. Young's age and debilitated condition, she needs access to and from her property 24 hours a day.

Attorney Bill Hunter, representing the Reindell's, spoke against the application. Attorney Hunter expressed concern that the Reindell's live in Siasconset year round and would be disturbed by the construction as well.

Attorney Rhoda H. Weinman, as an abutter, spoke against the application. Attorney Weinman stated that the neighboring properties would be blocked. She also urged the Board to consider the construction process rather than the end result. Attorney Weinman also suggested the Board consider the dates of restriction.

A motion was made (Waine) and duly seconded to approve the application with the conditions that no exterior work shall be done between Memorial Day and October 18th of any year, no work shall be done between the hours of 5:00 pm and 8:00 am, Monday through Friday, no work shall be done on Sunday, no work shall be done between 12:00 pm and 8:00 am on Saturday, no radios shall be played, the abutters driveways shall be open at all times, when King Street is blocked a detail Police Officer must be present, vehicles shall only be parked legally on King Street, no driven steel pilings shall be used, compressors may not be used except for raising and lowering the cottage, the applicant shall submit a landscaping plan, and the applicant shall ensure the appropriate preservation of all mature trees. 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.

Attorney Melissa Philbrick spoke on behalf of the Tetawkimmo appellants. Attorney Philbrick thanked the Board for attending the site visit earlier in the week. Attorney Philbrick also contended that the Special Permit governs the property and therefore any expansion would require a modification of said Special Permit.

Attorney Bill Hunter spoke on behalf of the applicants, Holdgate Partners d/b/a Longfin, LLC. Attorney Hunter stated that the site visit accurately showed the impact of activity on the houses. The burrow pit has existed for years; but, the neighborhood is new. The applicants are modernizing their equipment and this, in turn, has resulted in an evolution of the business. Attorney Hunter also stated that the loudest machinery has been removed from the site.

Bill Cassidy, the owner of the pit, explained that in an effort to combat the eroding berm, material has been pushed against the wall.

Dale Waine expressed his concern with the eroding side of the pit.

Attorney Bill Hunter stated that the hours of operation of the pit were 7:00 am to 7:00 pm, Monday through Friday, 7:00 am to 5:00 pm on Saturday, and no work on Sunday. The neighbors disagreed and believed the pit operated on Sunday and operated earlier than 7:00 am.

Marcus Silversetin stated that after attending the site visit, he did not see anything that would affect his previously issued decision.

Michael Tuchet, as an abutter, spoke against the application. Mr. Tuchet was concerned with excavating from the berm.

Philip Mardoni, an abutter, spoke against the application. Mr. Mardoni expressed his concerns with the condition of the berm, the dust, and the location of the tower.

Attorney Fitzgerald explained that the applicants had already received relief to renovate the existing cottage. However, the building department has the opinion that such renovation constitutes a demolition and further relief is required.

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

- 045-08 Killen 81 Hinsdale Road Beaudette
Action Deadline October 9, 2008.

Attorney Rick Beaudette spoke on behalf of the applicant.

Attorney Beaudette discussed the expanded use to the existing business.

The Board requested an updated parking plan and a more thorough site plan showing screening.

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

VII. Adjournment

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