



# TOWN OF NANTUCKET BOARD OF APPEALS NANTUCKET, MA 02554

Minutes  
Friday, September 12, 2008  
12:00 PM  
2 Fairgrounds Road

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

**Staff:** John Brescher and Venessa Moore

I. Call to Order:

**Chairman Michael O'Mara called the meeting to order at 12:08 P.M.**

II. Old Business

- |   |  |                |                               |              |          |
|---|--|----------------|-------------------------------|--------------|----------|
| ▪ | <b>085-06</b>  | <b>Reis</b>    | <b>80 Miacomet Avenue</b>     | <b>Reade</b> | <b>C</b> |
|   | Action Deadline September 26, 2008. Continued to September 12, 2008. |                |                               |              |          |
| ▪ | <b>030-07</b>  | <b>Burnham</b> | <b>12½ Sherburne Turnpike</b> | <b>Reade</b> | <b>C</b> |
|   | Action Deadline September 26, 2008. Continued to September 12, 2008. |                |                               |              |          |
| ▪ | <b>087-07</b>  | <b>Barrett</b> | <b>21 Somerset Road</b>       | <b>Cohen</b> | <b>C</b> |
|   | Action Deadline September 30, 2008.                                  |                |                               |              |          |

Attorney Steven Cohen spoke on behalf of the applicant.

Attorney Cohen requested the Board grant his request to withdraw the requested Special Permit and instead focus solely on the order from the Zoning Enforcement Officer citing the applicants for starting a new business on the site.

Attorney Melissa Philbrick, representing some of the abutters, recommended the applicant submit a timeline.

A motion was made (Waine) and duly seconded to approve the requested withdrawal.

The Zoning Enforcement Officer then spoke and indicated that as the Special Permit request was intended to determine the extent of the expansion of the pre-existing, nonconforming business, his order citing the applicant with a new business is moot and the Board should overturn the order and find that there is no new business on site.

Attorney Cohen suggested that the Board come up with a list of the businesses on site.

An abutter, Mary Soffell, spoke against the applicant indicating that she was hoping for a discussion regarding the businesses on site.

Attorney Philbrick suggested the Board look to the 1972 aerial photographs to ascertain what businesses existed at the time zoning was enacted.

Chester Barrett spoke in favor of the application, stating that there had always been trucking and the applicants had always done large jobs.

The Zoning Enforcement Officer stated that, regardless of the outcome today, he would be citing the applicants with a cease and desist order for an expansion of a pre-existing, nonconforming business.

A motion was made (Koseatac) and duly seconded to overturn the Zoning Enforcement Officer's Order. The vote was 4-0 in favor.

- 023-08 Spring 339 Polpis Road Spring C  
Action Deadline October 31, 2008. Continued to October 10, 2008.
- 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 Bill Hunter spoke on behalf of the applicants, Holdgate Partners d/b/a Longfin, LLC. Attorney Hunter reminded the Board that the scope of their discussions should be the appeal brought by the Tetawkimmo Commons Association Trust, Holdgate Partner's appeal regarding the use of the garage, a request for a clarification regarding the use of the garage, and the siting of the radio tower.

Attorney Hunter stated that Holdgate Partners have sent the neighbors of Tetawkimmo a list of conditions and are hoping to clarify the use of the pit.

Attorney Hunter also stated that the location of the tower is in the setback and Holdgate Partners is preparing to move the tower.

Attorney Melissa Philbrick, representing Tetawkimmo Commons Association Trust, suggested the Board focus on the prior decisions. Attorney Philbrick contended that the scope of the use of the property is governed by the previously issued special permits.

Michael O'Mara expressed concern regarding erosion.

Attorney Hunter stated that it is not in the Zoning Board of Appeal's jurisdiction to mandate screening of the eroding bluff.

Ed Toole expressed concern regarding the slope of the berm.

Bill Cassidy, speaking on behalf of Holdgate Partners, stated that he would rebuild the berm.

Bob Colletti, a former owner of the burrow pit, detailed the pre-existing uses and activities that existed. Mr. Colletti explained that the noisiest use was washing stone.

Leanne Swain, an abutter to the pit, spoke against the activity on the pit and felt that the current owner was not being a good neighbor.

Ed Toole noted that it may have been that the other businesses on site may have grown and wondered what the other businesses are. Mr. Toole suggested Mr. Cassidy define the businesses on site.

A motion was made (Waine) and duly seconded to continue the application to the October 10<sup>th</sup> meeting. The vote was 5-0 in favor.

- 049-08 Beale 4 Mooers Avenue Philbrick W  
Action Deadline November 6, 2008.

Attorney Melissa Philbrick requested that the application be withdrawn without prejudice.

### III. New Business

- 053-08 Overlock, et al 16 Baxter Road Hunter  
Action Deadline December 11, 2008.

Attorney Bill Hunter requested that the application be continued without being opened to the October 10<sup>th</sup> meeting.

- 052-08 Bouque Nobadeer Farm Road Zieff W  
Action Deadline November 6, 2008.

Attorney Alison Zieff requested that the application be withdrawn without prejudice.

- 058-08 Aslansan 1 Brock's Court Zieff C  
Action Deadline December 11, 2008. Continued to October 10, 2008.

Attorney Alison Zieff requested that the application be continued without being opened to the October 10<sup>th</sup> meeting.

- 059-08 First Sun, LLC 86 West Chester Street Zieff  
Action Deadline December 11, 2008.

Attorney Alison Zieff spoke on behalf of the applicant.

Attorney Zieff stated that the applicant is requesting relief because of an unintentional setback intrusion. Attorney Zieff further explained that the applicant constructed the garage himself and

relied on a licensed survey. The garage is sited about 34 feet from the front yard lot line in a zoning district that requires a 35 foot front yard setback.

Ed Toole wondered why the applicant made the error and requested to speak to the applicant in person.

A motion was made (Toole) and duly seconded to continue the application to the October 10<sup>th</sup> meeting. The vote was 5-0 in favor.

- 054-08 Roche 15 Trotters Lane Self C  
Action Deadline December 11, 2008.

The application was continued without being opened to the October 10<sup>th</sup> meeting.

- 055-08 Cooney 19 West York Lane Young C  
Action Deadline December 11, 2008.

The application was continued without being opened to the October 10<sup>th</sup> meeting.

- 056-08 Houghton 7 Farmer Street Self  
Action Deadline December 11, 2008.

James Houghton spoke for himself.

Mr. Houghton stated that the relief would make the property less nonconforming.

A motion was made (Koseatac) and duly seconded to approve the requested relief with the further condition that the applicant use a pervious material for the driveway. The vote was 5-0 in favor.

IV. Other Business:

- Discussion of Possible Zoning Bylaw Changes

Mark Poor recommended the Board look into possibly changing the Zoning bylaw section regarding wind energy so it is more accessible for the public to utilize wind powered devices on their property.

V. Approval of the Minutes:

A motion was made to approve the Minutes (Koseatac) (August 8, 2008), duly seconded, and voted 5-0 in favor.

VI. Adjournment

A motion was made (Waine) and duly seconded to adjourn the meeting at 2:30 P.M.