



# TOWN OF NANTUCKET BOARD OF APPEALS NANTUCKET, MA 02554

Minutes  
Friday, August 13, 2009  
1:00 PM  
2 Fairgrounds Road

**Board Members in attendance:** Michael J. O'Mara, Dale Waine, Ed Toole, Kerim Koseatac, Lisa Botticelli, Mark Poor, Carol Cross, and Susan McCarthy.

**Staff:** John Brescher and Venessa Moore

I. Call to Order:

**Chairman O'Mara called the meeting to order at 1:10 PM.**

II. Approval of the Agenda:

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

III. Approval of the Minutes:

**A motion was made (Koseatac) and duly seconded to approve the minutes of the July 9 and July 31, 2009 ZBA meetings. The vote was 5-0 in favor.**

IV. Other Business:

- Minor modification of Decision No. 022-09

**A site plan for ZBA Decision No. 022-09 was updated and the Applicant, the Town of Nantucket, requested the updated site plan be attached to the decision. A motion was made (Toole) and duly seconded to approve the requested minor modification. The vote was 5-0 in favor.**

- Approval of ZBA Annual Report FY 2009 (Pg 10)

**Staff prepared the FY 2009 Annual Report for the Board's Approval. A motion was made (Koseatac) and duly seconded to approve the Annual Report. The vote was 5-0 in favor.**

V. Old Business

- **085-06 Reis 80 Miacomet Avenue Reade C**  
Action Deadline September 26, 2009. Continued to September 10, 2009

- **030-07 Burnham** 12½ Sherburne Turnpike Reade C  
Action Deadline September 26, 2009. Continued to September 10, 2009
- **026-09 Reinig** 15 Milk Street Cohen  
Action Deadline October 7, 2009.

Attorney Steven Cohen represented the Applicants.

Attorney Cohen informed the Board that, per their request at the last hearing, the Applicant confirmed that the structure predates 1972. This was confirmed with photographic evidence and Sanborn Maps.

A motion was made (Toole) and duly seconded to approve the requested relief with the condition that shoring shall be done within five (5) feet of any public roadway and that there shall be no exterior construction from Memorial Day to September 15 of any year. The vote was 5-0 in favor.

#### VI. New Business

- **018-09 Visco** 17 Young's Way Ranney  
Action Deadline February 12, 2010.

Attorney Jamie Ranney represented the Applicant.

Attorney Ranney informed the Board that the Applicant is requesting a modification of the existing decision. This modification would strike paragraph 8(l) which would allow the Applicant to store the sanitation truck outside overnight. Additionally, the Applicant would like to modify condition 8(e) to allow for the outdoor storage of porta-potties.

David Visco, the Applicant, explained to the Board the nature of his business and the process of cleaning the porta-potties.

Dale Waine asked how large the building is and how many units would be stored outside.

David Visco indicated that he would like to store twenty (20) of the units outside.

Mark Poor asked about the planting materials used surrounding the property and how high the privet hedge is.

Attorney Ranney stated that the primary concern is appearance and that the Applicant has made efforts to meet with the neighbors to come to a resolution.

Attorney James Merberg, representing Lindsay Winters, spoke against the application. Attorney Mergberg indicated that this use was anticipated and decided by the Board during the first hearing. Attorney Merberg also presented photographs of the screening. Attorney Merberg noted that in other decisions in the Young's Way subdivision, no outside storage has been allowed.

Michael Alpert, an abutter, spoke against the application and questioned why the units have to be stored outside.

Debbie Deeley Culbertson, an abutter, spoke against the application and indicated that the outdoor storage of these units has negatively impacted her property value.

Robert Young, an abutter, spoke against the application.

Attorney Ranney reminded the Board that most of these complaints focused on the appearance more so than anything else.

Jim Cahill, Marshall Jones, Peter Lauderback, Kasha Baker, Patrick Hehir, and Robert McKeene all informed the Board that they were opposed to this application as well.

It was suggested by the Board that a site visit would be appropriate. A site visit was tentatively scheduled for August 19.

A motion was made (and duly seconded) to continue the application to the September meeting. The vote was 3-2 in favor (Toole and Poor opposed).

- 029-09 Farrell 4 Westmoor Farm Road Jensen  
Action Deadline, November 11, 2009.

Attorney Paul Jensen represented the Applicant.

Attorney Jensen presented the Board with an affidavit proving that this particular structure has been nonconforming to the extent that it has contained three dwelling units prior to 1972.

Francis Farrell, the Applicant, showed the Board the approved HDC plans.

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

- 030-09 Goodwin 50 Walsh Street Hunter  
Action Deadline November 11, 2009.

Attorney Bill Hunter represented the Applicant.

Attorney Hunter informed the Board that he is looking for relief for both a ground cover issue, as well as a setback intrusion.

Regarding the setback intrusion, Attorney Hunter stated that this was a surveying error that was likely done in the mid-1980s.

With respect to the issue of the structure being over the allowed ground cover, Attorney Hunter indicated that it was a question of the definition of a Bay Window. The Zoning Enforcement Officer is of the opinion that the window in question is not a Bay Window and therefore is not exempt from ground cover.

After examining the various pictures presented by the Applicant, the Board concluded that this did not fit the definition of a Bay Window.

Accordingly, a motion was made (Toole) and duly seconded to approve the relief relating to the setback intrusion. The vote was 5-0 in favor.

Another motion was made (Toole) and duly seconded to approve the requested relief for a variance to validate the existing ground cover. The vote was 4-1 in favor (Toole opposed).

A motion was made (Toole) and duly seconded to allow the withdrawal of the appeal of the Zoning Enforcement Officer. The vote was 5-0 in favor.

- 031-09 Ferris 8 Pochick Street Hunter  
Action Deadline November 11, 2009.

Attorney Bill Hunter represented the Applicants.

Attorney Hunter informed the Board that the structure will be raised so a full basement can be put beneath it.

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

- 036-09 Nant. Dreamland Foundation 17 S. Water/18 Easy St. Hunter  
Action Deadline October 29, 2009.

Attorney Bill Hunter represented the Applicants.

Attorney Hunter informed the Board that the Applicant would like to modify the variance so the tent may be erected through October 31, 2009.

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

- 034-09 Paul 7 Paupamo Way Stetina  
Action Deadline November 11, 2009.

Attorney Jeff Stetina represented the Applicants.

Attorney Stetina informed the Board that the Applicants are requesting relief in order to erect an addition.

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

- 037-09 Schwartz/Reisman 2 Western Ave Dale  
Action Deadline November 11, 2009.

Attorney Kevin Dale represented the Applicants.

Attorney Dale represented the Applicants. Attorney Dale informed the Board that the proposed reconfiguration will make the lot less nonconforming.

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

- 032-09 McAlinden 48 S. Cambridge St. Hanley

Action Deadline October 29, 2009.

Attorney Marianne Hanley represented the Applicants.

Attorney Hanley informed the Board that the structure was originally sited on the neighbor's lot line and due to wetland constraints, the only suitable relocation of the structure is within the front yard setback.

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

- **033-09**      **51 Baxter, LLC**                      **51 Baxter Road**                      **Gullicksen**  
Action Deadline October 29, 2009.

Attorney Kenneth Gullicksen represented the Applicants.

Attorney Gullicksen indicated that the Applicants are requesting relief in order to construct a second dwelling within the front yard setback. Attorney Gullicksen informed the Board that the Applicants have HDC approval for the siting within the setback.

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

- **035-09**      **Greenhound, LLC**                      **10 Washington Street**                      **Philbrick**  
Action Deadline November 11, 2009.

Melissa Philbrick represented the Applicant.

Ms. Philbrick stated that the Applicant is requesting a seasonal parking waiver and to add bike racks where the parking spaces are.

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

- **038-09**      **Polvere**                                      **4 Dennis Drive**                                      **Self**  
Action Deadline November 11, 2009.

Dan Polvere represented himself.

Mr. Polvere informed the Board that he has been trying to close out his building permits and in the course of doing so, discovered that there is a setback intrusion on his property.

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

## VII. Adjournment

A motion was made (Botticelli) and duly seconded to adjourn the meeting at 4:00 PM.