

**COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT**

NANTUCKET, ss.

24 MISC 000543 (MDV)

CATHERINE S. WARD,

Plaintiff,

v.

TOWN OF NANTUCKET; NANTUCKET
ZONING BOARD OF APPEALS;
SUSAN MCCARTHY, et al., as they are
members of the Town of Nantucket Zoning
Board of Appeals; PETER A. GRAPE; and
LINDA OLIVER GRAPE,

Defendants.

JUDGMENT

Plaintiff Catherine S. Ward filed this three-count action in September 2024, following the issuance of a decision by the defendant members of the Nantucket Zoning Board of Appeals (the “ZBA”), filed with the Town Clerk of Nantucket on September 13, 2024 (the “Decision”). In the Decision, the ZBA concluded that defendants Linda Oliver Grape and Dr. Peter A. Grape’s use of their “Main House” as a seasonal rental was a “permissible accessory use under the Nantucket Zoning Bylaw.” In Count I, Ward asked this Court under G.L. c. 40A, § 17, to annul the Decision. In Count II, Ward asked the Court to declare under G.L. c. 240, § 14A, a count brought against defendant Town of Nantucket, that the “Grapes’ use of the Property for [short-term rentals] is neither subordinate nor customarily incidental to the permitted principal use as a residence and thus in violation of the [Bylaw].” In Count III, Ward asked the Court for a writ of mandamus under G. L. c. 249, § 5, directing the Town to enforce the Bylaw against the Grapes’ short-term rentals.

The parties appeared for trial on February 19-21, 2025. On February 20, 2025, the Court granted Defendants’ motion for a directed verdict/involuntary dismissal of Count III. For the reasons set forth in the Findings of Fact and Conclusions of Law issued this day, the Court:

1. **ORDERS, ADJUDGES, and DECREES**, that judgment hereby enters in FAVOR of plaintiff Catherine S. Ward, and AGAINST the defendant members of the Nantucket Zoning Board of Appeals (the “ZBA”) and defendants Linda Oliver Grape and Dr. Peter A. Grape, on Count I of Ward’s complaint in this action;

2. **ORDERS, ADJUDGES, and DECREES**, that judgment hereby enters in FAVOR of Ms. Ward, and AGAINST defendant Town of Nantucket (the “Town”) and the Grapes, on Count II of Ward’s complaint in this action;
3. **ORDERS, ADJUDGES, and DECREES**, that Count III of Ward’s complaint is hereby DISMISSED;
4. **ORDERS, ADJUDGES, and DECREES**, that the September 12, 2024, decision of the ZBA on Ms. Ward’s zoning appeal, filed with the Town Clerk of Nantucket on September 12, 2024, is hereby VACATED, and the case is REMANDED to the ZBA for further proceedings in accordance with this Court’s Findings and Conclusions, such proceedings to commence within 45 days of entry of this Judgment; and
5. **ADJUDGES and DECREES**, that § 139-15 of the current Nantucket Zoning Bylaw does not allow rentals shorter than 31 days of “primary dwellings” in the Nantucket Residential Old Historic district, except for “the rental of rooms within an owner-occupied dwelling unit.”

SO ORDERED.

By the Court (Vhay, J.)

/s/ Michael D. Vhay

Attest:

/s/ Deborah J. Patterson

Deborah J. Patterson, Recorder

Dated: June 6, 2025