

What are the Steps for Building on Nantucket?

Depending upon the particular property there can be many steps to go through in order to build or renovate on Nantucket. Some of these steps can be done concurrently and they are very property-specific. Each commission or board has certain statutory requirements for giving notice to the public and neighbors who are allowed a voice at the various hearings. Before applying to any of these entities, an owner will need a current and updated survey which will largely inform what is possible to do on the property. Following is a list of the various permitting authorities, in no particular order:

Nantucket Conservation Commission (Con Comm): The Conservation Commission is tasked with enforcing the state and local wetlands protection act. Any property that is located within 100 feet of an area defined as a wetland falls under their jurisdiction. There is a no-disturb zone between the wetland and the 25' buffer zone. It is sometimes possible to have some landscaping within the 25'-50' buffer zone and sometimes building is permitted within the 50'-100' buffer zone. The process involves two steps: the initial application is a Request for Determination and the second step is a Wetlands Review which may result in a Certificate of Compliance. The Con Comm determines where structures can be built on the lot relative to the wetlands (which could be defined as wetlands vegetation and not actually be "wet"). The Con Comm also has a say in NHESP applications which deal with priority habitats of rare species (please see below). This process can take months, depending upon various factors.

The Natural Heritage & Endangered Species Program (NHESP): This is the state agency that is responsible for the conservation and protection of hundreds of species that are not hunted, fished, trapped, or commercially harvested in the state, as well as the protection of the natural communities that make up their habitats. The Massachusetts Division of Fisheries and Wildlife has some jurisdiction over this. Only certain properties are subject to NHESP, typically in more rural areas of the island.

Historic District Commission (HDC): Because the entire island is a designated historic district any changes to the exterior of a structure (including paint colors and fenestration) must be approved by the HDC. There is a useful guide, available at both local bookshops, called Building with Nantucket in Mind. We highly recommend that a new owner work with a local designer or architect.

Once the house plans are set and submitted to the HDC, the process can take some months before the plans are approved.

Nantucket Zoning Board of Appeals (ZBA): If the lot does not conform to current zoning regulations it triggers a visit to the Zoning Board of Appeals for relief which is granted either by a Special Permit or a Variance. The Variance has a much higher standard to meet for relief than a Special Permit. One of the jobs of the ZBA is to make sure that new development is not contributing to an increase of non-conformity on a particular property. Allow at least 2-3 months for this.

Nantucket Planning Board: The Planning Board's mission is to review residential subdivisions; review secondary dwelling permits; and review special permits for major commercial development, moorlands management district developments, major residential developments, multi-family developments, and second curb cuts. They operate under the Massachusetts Subdivision Control Law (Chapter 41 of the General Laws). The majority of residential projects on Nantucket do not involve Planning Board approval.

Nantucket Board of Health: Among other things, the Nantucket Health Department is responsible for making sure that all island wells and septic systems comply with state and local Title V health regulations. Title V applies only to those properties that are on a septic system and well instead of Town sewer and Town water.

Nantucket Building Department: Usually the last stop on the pre-construction journey is the local Building Department which is responsible for issuing the building permit for the project. They have an itemized checklist of requirements from the other various boards and commissions (outlined above) that need to be satisfied prior to the issuance of the building permit. Once the completed building permit application is submitted the Building Department has up to 30 days, by statute, to issue the permit. Once the permit is issued then construction can begin.