

Case No. 6-20
Date Filed: 25 February 2020

RECORD OF PROCEEDINGS

I, Lisa C. Morrison, assistant to the Zoning Board of Appeals of the town of Edgartown, hereby certify that the following is a detailed record of proceedings pertaining to the request of Daniel & Dawn Burnham for a special permit under section 10.1 G of the bylaw to install a swimming pool on a preexisting, nonconforming lot located at 63 Herring Creek Road, (Assr. Pcl. 36-33) in the R-20 Residential District.

1. On 25 February 2020 the application, a true copy of which is marked "A," was presented to the Town Clerk.
2. In addition, an advertisement, a true copy of which is marked "B," was published in the Vineyard Gazette on 28 February and 6 March 2020.
3. Notice of the hearing, a copy of which is marked "C," was mailed, postage prepaid, to the petitioners; the abutters - owners of land adjacent to the subject property within 300 feet of the property lines - all as they appear on the most recent, applicable, certified tax list; and to all the proper town boards and departments.
4. In order to comply with the Governor's response to the Covid-19 pandemic the hearing was rescheduled from 18 March 2020 to 13 May 2020. A second advertisement appeared in the Vineyard Gazette on 1 May and 8 May 2020. Abutters were sent additional notices of the change of date as well as information on how to join the meeting remotely via Zoom.

On Wednesday, 13 May 2020 at 2:00 p.m. the public hearing was held via Zoom. The following board members were sitting for this hearing: Martin Tomassian – Chairman, Richard Knight, Carol Grant, Nancy Whipple, and Robin Bray– alternate. Chairman Tomassian introduced the board members and read the necessary requirements for conducting remote meetings in order to comply with both the Governor's order and the Open Meeting Law.

Reid Silva of Vineyard Land Surveying made the presentation. Also present via Zoom were Dan Burnham, prior owner; Bill Shepherd, current owner; abutter Fred Hoffman; and real estate agents Bonnie Pierce and Stephanie Roche.

Mr. Silva said the applicant is proposing to install a 30-foot by 10-foot wide pool on a preexisting, nonconforming lot. The applicant is also proposing to install a 6-foot high

stockade fence along the sides and rear of the lot, as shown on the plan. The dwelling of the closest neighbor, Fred Hoffman, is about 50-feet away. Mr. Hoffman requested the stockade fence.

Pool equipment will be located in a fully enclosed sound-proofed shed that will be located just off the garage and will meet the setback.

Mr. Silva said that the location of the proposed pool is really the only private congregating spot on the property. He said he did not think the pool would be contributing to additional noise as people would be in that area regardless of whether or not there is a pool.

Mr. Tomassian asked if there were any letters from town boards or departments. There were none. The assistant noted that she had been corresponding with Mr. Hoffman, the nearest abutter, who wrote that he was in favor of the project provided it was screened from his property by a 6-foot high stockade fence. Letters of support from abutters Shawn Chapps of 61 Herring Creek Road and Tighe Mathieu of 65 Herring Creek Road were also read.

Fred Hoffman, abutter, had some questions about what the equipment shed will look like. Silva replied that it will look like a standard garden shed and will be fully enclosed and sound proofed.

Mr. Tomassian then closed the public portion of the hearing for discussion by the board. Ms. Grant asked about the placement of the pool equipment. Mr. Silva explained that if it was brought closer to the pool it would be in the setback. Mr. Silva said they made the shed as small as possible, 8-feet by 6-feet.

Mr. Knight asked why the equipment was in a separate building and not in the existing garage. Mr. Silva replied that it was simpler to build a separate shed than having to alter the garage. Mr. Knight asked to see the location of the neighboring houses. An aerial photograph was put up on screen.

Mr. Tomassian asked if there were other pools in the neighborhood. Stephanie Roche said that she knew of a pool at 65 Herring Creek Road. Ms. Bray noted that there was also a pool at the corner of Mercier Way and Herring Creek.

Mr. Knight asked if the property would be rented. Dan Burnham, former owner of the property, said that he does not believe Mr. Shepherd intends to use the property as a rental, though he has agreed to honor rental agreements for this summer that were made prior to his purchase.

Mr. Tomassian said that his major problem with the proposal is that it feels like the pool is being 'shoe-horned' into the property. Ms. Whipple suggested that additional vegetation would go a long way to dampen any sound generated from the pool.

Mr. Tomassian said that if there is noise, the neighbors can notify the building department.

Mr. Knight said that he agreed with Mr. Tomassian that the pool seemed to be 'shoe-horned' onto the lot. He said he did not think that every property was appropriate for a pool. He said he thought this proposal was right on the edge.

Ms. Bray said that maybe a 5-foot wide pool would be more appropriate.

Mr. Tomassian noted that this is smaller than the average pool, which is 20-feet by 40-feet.

Ms. Whipple made a motion to approve the project as presented. She said she found the site to be adequate and believed that the project was in harmony with the general purposes and intent of the bylaw. She noted that three of the immediate neighbors were in favor of the proposal and she did not think that the project would be detrimental to the neighborhood.

Ms. Grant seconded the motion and voted to approve the project for the same reasons.

Mr. Knight, Ms. Bray, and Mr. Tomassian also voted to grant the special permit for the same reasons. Unanimously approved 5 to 0.

Respectfully submitted,

Lisa C. Morrison, Assistant