

Case No. 13-20  
Date Filed: 23 July 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 Tim Burke for a special permit under section 10.1 G of the bylaw to demolish and existing structure and construct a new single, family dwelling on a preexisting, nonconforming lot located at 17 Pine Tree Lane (Assr. Pcl. 20C-51.2) in the R-5 Residential District.

1. On 23 July 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 24 July and 31 July 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.

On Wednesday, 12 August 2020 at 4:00 p.m. the hearing was opened and held via Zoom. The following board members were in attendance: Martin Tomassian – Chairman, Carol Grant, Nancy Whipple, Pam Dolby, and John Magnuson. 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.

Debbie & Tim Burke were present for the Zoom session and were representing themselves. Ms. Burke explained that the existing house is in terrible shape and full of mold. She said that she and her husband have cleaned up the yard and would like to construct a one-story, three-bedroom house on the property. The house would be approximately 2128 sq. ft. with a 364 sq. ft. sunroom. The property, which is currently serviced by a septic system, will be connected to town sewer. The lot is just 130 sq. ft. shy of being a 10,000 sq. ft. conforming lot.

Mr. Tomassian asked if there were any letters from town boards or departments. There were none. Letters from four immediate abutters were read: Maria & Tad Lawcewicz, Mark & Bridget Towey, Jaoa Pinto & Romilda Coelho, and William & Elizabeth Sherry. All

were in favor of the proposal, however two of the abutters, the Sherrys and the Toweys, asked that new construction conform to the required 20-foot front yard setback from Pine Tree Lane.

As shown on the site plan, the south side of the existing house is located 7-feet from Pine Tree Lane, however it is oriented towards the rear of the Sherry property, not towards Pine Tree Lane.

The Burkes said that they have sited the house in order to maximize the amount of rear yard. The property is currently accessed by a 16-foot deeded easement from Pinehurst Road over the Smith property, not from Pine Tree Lane. Apparently when the lot was created, Pine Tree Lane did not yet exist.

The assistant commented that in the building inspector's opinion the front of the property is Pine Tree Lane. The front of the house is oriented to front on Pine Tree Lane and the address of the property is 17 Pine Tree Lane.

Mr. Tomassian commented that in R-5, the front yard setback need not be greater than the average of front yards on either side of the property on the same side of the street. However, this does not help the applicant in this case as the property to the west is fronted by Pinehurst and the property to the east has a front yard setback of 20-feet.

There was some discussion of orienting the house so that the rear of the house would face Pine Tree Lane. Tomassian suggested that the Burkes consider moving the house or flipping it around.

Mr. Magnuson asked whether or not the applicants had a legal right to use Pine Tree Lane to access the property.

After some further discussion Ms. Grant made a motion to allow the applicants to withdraw their request. Ms. Whipple seconded the motion. Mr. Tomassian, Mr. Magnuson, and Ms. Dolby all voted to allow the applicant to withdraw.

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On the morning of 13 August 2020, a new plan was received by the Zoning Board, relocating the structure 21-feet from Pine Tree Lane. A new hearing notice was posted that day and the notice and the new plan were distributed electronically to all the abutters who had responded. On Tuesday, 18 August 2020 at 4:00 p.m. the board reconvened: Martin Tomassian – Chairman, Pam Dolby, John Magnuson, Carol Grant, and Nancy Whipple. Ms. Dolby made a motion to rescind the prior vote withdrawing the application and allowing the hearing to continue. Ms. Whipple seconded the motion. Grant, Magnuson, and Tomassian all voted in favor of rescinding the prior vote and allowing the applicants to continue.

The revised plan showing a 21-foot setback from Pine Tree Lane was reviewed. It was noted that the new plan conforms with all the required R-5 setbacks on the front, sides, and rear. Debbie Burke asked to revise the front yard setback from 21 to 20-feet, but the Chairman cautioned that because the abutters had been given the 21-foot plan to review, it could not now be changed without an additional hearing. The Burkes withdrew their request.

There were no objections from any abutters present. Elizabeth Sherry spoke in favor of the plan as did Mr. & Mrs. Cheevers.

Mr. Magnuson made a motion to grant the special permit saying that he found the proposal to be in harmony with the general purpose and intent of the bylaw. He said the new structure will conform to setbacks, will be an improvement, and will not be detrimental to the neighborhood. He noted that the abutters were all in favor of the revised proposal.

Ms. Whipple seconded the motion and voted to grant the special permit for the same reasons. Ms. Grant, Ms. Dolby, and Mr. Tomassian also voted to grant the special permit for the same reasons.

Respectfully submitted,

Lisa C. Morrison  
Assistant to the Zoning Board.