

Date Filed: 7 July 2020
File No.: 22-20

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 appeal under M.G.L. Chapter 40A Section 8 by WJH LLC, Green Hollow LLC, the Reily Family Limited Partnership, William B. Reily IV and Caroline Reily concerning the Building/Zoning Inspector's issuance of three building permits: #19-505 for the main house, #20-166 for the pool, and #20-179 for the garage on property located at 32 Ocean View Avenue, Assessor's Parcel 29-137 in the R-60 Residential District and owned by Thomas M. Sheehan, Tr.

1. On 7 July 2020 the application, a true copy of which is marked "A," was presented to the Town Clerk and to the Zoning Board of Appeals office.
2. Because of the pandemic, and with Mr. Moriarty's (the appellants' attorney) approval, the initial hearing was not scheduled until 30 September 2020.
3. An advertisement, a true copy of which is marked "B," was published in the *Vineyard Gazette* on 11 September 2020 and 18 September 2020.
4. 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, 30 September 2020, the hearing was held remotely via Zoom. The following board members were present for the hearing: Nancy Whipple – Acting Chairman, John Magnuson, Carol Grant, and alternates Robin Bray and Julia Livingston. Also present were Timothy Moriarty, Caroline and Bo Reily, Doug Hoehn, Michael Bonner – attorney for Mr. Sullivan, Eric Las, and Jason Brickman.

Mr. Moriarty explained that the genesis of this appeal was based on the Building Inspector's response to the previous request for enforcement. Mr. Moriarty said that the Reily's received no notice that the driveway was being moved and no notice that a retaining wall was to be built adjacent to their property. There were no plans on file with the building department or with the Planning Board.

On Thursday, 15 October 2020 at 3:00 p.m. the Board reconvened via Zoom. The hearing was posted and duly noticed. Present for the hearing were: Nancy Whipple – acting chairman, John Magnuson, Carol Grant, Robin Bray – alternate, and Julia Livingston, alternate. Also attending were: Bo & Caroline Reily, Tim Moriarty, Eric Las, Don Sullivan, Doug Hoehn, and Michael Bonner.

Ms. Whipple opened the hearing and reminded those present that the record was closed to public input and no additional information will be received or presented. Ms. Whipple said that the question before the board is: Was the Building Inspector correct in issuing the three building permits? She asked if there was any discussion or questions from the board members.

Mr. Magnuson said that he reviewed the information presented at the prior meeting and the minutes. He said he did not think any discussion was necessary and that he is ready to make a motion.

Ms. Grant said that she too reviewed the minutes and other materials. She noted that the appeal came in way after the appeal period had ended. She said she sees no reason to believe that the permits were issued in error. She said she does not believe that the board even has jurisdiction over the matter.

Ms. Bray agreed and said she sees no evidence that the permits were issued in error.

Ms. Livingston agreed and said that the fact that the appeal was not received before the end of the 30 day appeal period was a 'fatal flaw.'

Mr. Magnuson made a motion to deny the Reily's appeal of the issuance of the three building permits.

Ms. Livingston seconded the motion and voted to deny the appeal for the reasons listed above.

Ms. Whipple, Ms. Grant, and Ms. Bray also voted to deny the appeal for the same reasons.

Motion carries, 5 to 0.

The board also voted unanimously by roll-call vote to allow the assistant to sign the decision on their behalf and file it with the town clerk within 14 days.

Respectfully submitted,

Lisa C. Morrison
Assistant