

Case No. 27-19
Date Filed: 7 October 2019

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 Nancy Whipple for a special permit under section 10.1 G and 10.3 D of the bylaw to renovate and construct additions to an existing single-family dwelling - including an accessory apartment and a swimming pool. The property is located on a preexisting, nonconforming lot located at 82 North Summer Street, (Assr. Pcl. 20D-91) in the R-5 Residential District.

1. On 7 October 2019 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 October 11th and October 18th 2019.
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 Monday, 28 October 2019 at approximately 5:00 p.m. the public hearing was held in the Town Hall. The following board members were sitting for this hearing: Martin Tomassian- chairman, John Magnuson, Carol Grant, Nancy Kelly - alternate, and Gerry Conover, alternate.

Architect Chuck Sullivan was present for the applicant. Thayer Whipple, her father Jeff Whipple, and Brian Savva were also in attendance. Mr. Sullivan said that the intent of the project is to allow a local family to stay in Edgartown. The Whipples would like to renovate and expand their existing house and add an accessory apartment. Thayer, Brian, and their three children would move into the main house, and Nancy would move into the accessory apartment. A pool is also proposed.

Mr. Sullivan provided a chart and a map comparing the ratio of living space to lot area and footprint to lot area in the neighborhood. A map of pools on both conforming and nonconforming lots in the neighborhood was also submitted. Sullivan noted that there were at least four swimming pools on nonconforming lots in the area. The post-

development percentage comparison of footprint to living space on the Whipple lot was 34% (FP) to 43% (LS) – similar to many properties in the area. The current house has a total of 1870 sq. ft. of living space: 1020 on the first floor and 850 on the second floor. The proposed accessory apartment would have 413 sq. ft. on the first floor and 263 sq. ft. on the second floor for a total of 675 sq. ft. The renovated main house would have 1292 sq. ft. of living space on the first floor and 1035 on the second floor for a total of 2327 sq. ft. Taken together the accessory apartment and the renovated main house would have a total of 3002 sq. ft. of living space.

Sullivan noted that the proposal had received unanimous approval from the Historic District Commission. The only change to the front of the house - the side facing Summer Street - will be larger dormers. The front entry will remain the same. The bulk of the addition will be at the left rear of the property. The pool was relocated to a more central location on the lot, and the pool equipment will be contained in a sound-proofed shed. The existing fence on the property will be replaced with a similar fence.

Mr. Tomassian asked if anyone present wished to comment in favor of the application.

Jeff Whipple said that they are trying to help his daughter, her partner, and their three children to stay on the island. He said he believes it is important for children to have a stable roof over their heads. He said that Thayer and Brian, like so many other young families, are priced out of the market. The rental they had for many years will soon be unavailable as the owner's situation has changed. He said that both Brian and Thayer are self-employed and work from home - the pool would provide a place for their children to cool off and to be entertained while still under their parents' care.

Judy Murray, a colleague of Thayer Whipple's, said she knows the board is aware that there is a housing crisis on the island, as well as an aging population. She said this proposal checks both boxes. The project ensures that an older person in an older home can stay, and the house not sold off to a developer.

Kelly Hess, Edgartown resident, spoke in favor of the application. She too mentioned the year-round housing crisis in Edgartown and said she has seen Thayer and Brian trying for years to find year-round housing. She urged the board to approve their request.

Letters of support from abutters were read: Howie Powers, 74 North Summer St.; Eric Klausman, 70 North Summer St.; Dr. William Spear 73 North Summer St.; Jennifer & Jonathan Blum of 41 Morse Street, and Kevin Ward 67 Peases Point Way North. All were enthusiastic in their support of the plan and the concept of a multi-generational home.

A letter from Richard Colter, formerly of 42 Morse Street, noted that it was sad to see downtown Edgartown, which was once a vibrant year-round neighborhood, turning into a ghost town. He said the extended Whipple family will bring some 'much needed life back into the neighborhood.'

There were no letters from town boards or departments.

Mr. Tomassian asked if there were any objections. Attorney Dan Larkosh said he was representing the Kendes and the Bonventres – both abutters. Mr. Larkosh said that he did not disagree that the town needs more affordable housing and that the Whipples are

valuable members of the community. However, neither of those criteria permit circumventing the bylaw.

Larkosh stated that neither the pool nor the accessory apartment qualify as preexisting, nonconforming uses. He said that the bylaw requires a minimum of 10,000 sq. ft., this lot is not even 7000 sq. ft.

Larkosh said that the bylaw permits an accessory apartment to have one bedroom, one living room, one bathroom, and one kitchen. He said the proposed apartment has additional rooms.

Larkosh submitted a chart comparing lot size and lot coverages in the area.

Larkosh submitted a photo of the parking area and said that with three adults living on the property it is likely that there will be three cars. He said the parking area was inadequate.

He said that pool is likely to bring increased noise to the neighborhood. Mr. Tomassian asked if he was complaining about kids having a good time. Larkosh replied that it is possible to have a happy childhood without a pool.

Larkosh concluded his presentation saying that if the board chooses to approve the project, his client would like to request that there be no construction during the summer months.

Christopher Kende, abutter and client of Mr. Larkosh, said that he has known and loved the Whipples for many years. He said that he is troubled by the size of the addition and the pool. He said that he considers Jeff Whipple to be one of his best friends and that he is uncomfortable speaking against the project.

Mr. Sullivan said he is not sure how Mr. Larkosh arrived at his numbers, and suggested that perhaps he factored in the square footage of the basement. He said that the Whipple project is clearly in line with other developments in the neighborhood, both in terms of lot coverage and overall living space.

He said that there is no intention to circumvent the bylaw. Both the accessory apartment and the pool are *permitted* residential uses. The only nonconformity is the size of the lot, which is just under 7000 sq. ft., not the 6294 sq. ft. noted on Mr. Larkosh's chart. The application is before the board is for a special permit to allow these structures to be built on a nonconforming lot.

Thayer Whipple commented that both she and Brian work from home, and they would like to avoid having to pay a nanny to take the kids to the beach. She said that as working parents it is difficult to find time to take the kids to the beach, let alone find a parking space once they get there. She said that kids make noise regardless of whether there is a pool or a swing set in the backyard. She said some people have noisy dogs. She said that the proposal is their attempt to make the most out of a house she grew up in. She objected to Mr. Larkosh's assertion that the parking was inadequate – she said that in the 20 or so years she lived in the house, there were sometimes four cars in the driveway. She said they made it work with no problems.

Mr. Tomassian then closed the public portion of the hearing for discussion by the board.

Mr. Magnuson said that the application is before the board only because the lot is nonconforming. Neither the pool nor the apartment are nonconforming uses. Up until the Bransford decision the pool would have been allowed by right because it meets setbacks. All accessory apartments require special permits, regardless of the size of the lot.

Magnuson said that the entire neighborhood has been similarly developed with larger houses and pools on both conforming and nonconforming lots. He noted that two abutters were against the proposal, but another five or six were in favor. Magnuson said that he does not find the proposal to be out of character with the neighborhood.

Ms. Kelly agreed. She said that she had an accessory apartment in her house and it enabled families to stay together in a very expensive town.

Ms. Grant said that she did not find the proposal objectionable and only wished that it was on her side of town.

Mr. Conover agreed and said he thought the design was appropriate and not too large for the site. He said that the noise from the pool equipment should be minimal as it will be located in a sound-proofed shed.

Mr. Tomassian said that he believed that this situation is exactly what the accessory apartment bylaw is for. He said that he found the letter from Richard Colter to carry a lot of weight. He said that Mr. Colter sat on the zoning board and certainly knows the neighborhood better than most.

Mr. Magnuson made a motion to grant the special permit for the above-stated reasons and with the following condition: No exterior construction is to take place between July 1st and Labor Day.

Ms. Grant seconded the motion and voted to grant the special permit for the same reasons and with the same conditions.

Mr. Tomassian, Ms. Kelly, and Mr. Conover also voted to grant the special permit for the same reasons and with the same conditions.

Unanimously approved 5 to 0.

Respectfully submitted,

Lisa C. Morrison, Assistant