

Case # 16-19
Date Filed: 30 April 2018

DECISION AND FINDINGS OF THE ZONING BOARD OF APPEALS

Re: Request for a special permit under section 11.9 (f) of the Edgartown Zoning Bylaw
Applicants: Gary Daula & Richard Torcia
Owners: Rex & Laura Lee Gedney
Assessor's Parcel: map 29A lot 19
Book: 819 Page: 802

PROCEDURAL HISTORY

1. Application is for a special permit under section 11.9 (f) of the bylaw to permit the demolition of an existing one-story structure and permit the construction of a new dwelling, swimming pool, and associated fencing on a preexisting, nonconforming lot located at 147 South Water in the R-5 Residential District.
2. A public hearing - after proper notice was given to abutters, town departments, and placed in the *Vineyard Gazette* – was held on Wednesday, 15 May 2019. .
3. The application was accompanied by a set of site plans, floor plans, and elevations 30 April 2019, Sullivan and Associates.
4. The Board reviewed the application, the plans, and all other materials and information submitted prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing [See Record of Proceedings].

FACTS

1. The property consists of a preexisting nonconforming 9276 sq. ft. lot. A conforming lot in the R-5 Residential District is 10,000 sq. ft. The proposed new construction would conform to the necessary R-5 setbacks.
2. The existing one-story dwelling is approximately 800-sq. ft. The proposed dwelling would be three stories with approximately 4018 sq. ft. of living space (not including a substantial finished basement).
3. The applicant is also proposing to install a 16-foot by 32-foot swimming pool and associated fencing at the rear of the property.
5. A number of abutters had concerns about the size and massing of the proposal. One direct abutter wrote that the project would have a negative impact on her privacy, citing especially the second-floor

decks and the third floor dormers. She was also concerned that noise and exterior lighting in the pool area would have a negative impact.

6. Several abuttes said that the size and style of the proposed dwelling was not in character with the neighborhood, which is characterized by more modest houses with lower impact on neighbors.

7. Another abutter who was opposed to the project noted that there were only two pools in the immediate neighborhood.

8. Two letters of support from abutters were received, one of which was from the current owners of the property.

FINDINGS:

The Board finds that the proposal – as presented – does not comply with the provisions of 11.9 (f) for the following reasons:

1. It is not in harmony with the general purpose and intent of the bylaw. Although the proposal meets the setback and height requirements of the R-5 District, the board finds that the proposed developments are more than the overall size of the lot can support.

2. Based on the comments of several immediate abutters, the board finds that the proposal would have a negative impact on the neighborhood including loss of privacy and noise.

3. The board finds that replacing the existing one-story, 800 sq. ft. cottage with a structure five-times its size would have a negative effect on the character of the neighborhood, which is characterized by smaller homes.

DECISION

Based on the above findings and reasons, the Board voted 4-1 to deny the special permit.

This decision of the Board of Appeals and a record of proceedings are on file in the Zoning Board office and in the office of the Town Clerk, Town Hall under Case No: 16-2019.

Board of Appeals,

Lisa C. Morrison, Assistant

Note: This decision was filed in the office of the Town Clerk on 20 May 2019. Appeals, if any, should be made pursuant to Section 17 of Chapter 40A of the Massachusetts General Laws and should be filed within 20 days of the filing of this decision in the office of the Town Clerk.

_____ 2019
I hereby certify that no appeal has been filed in the twenty-day period following the date of filing this decision.

Attest: _____