

Case No. 21-19
Date Filed: 11 July 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 Cynthia Reed, Trustee, on behalf of Peter DeFeo & Dara Frigoletto (prospective purchasers) to reinstate the second phase of a special permit that was issued in 2009 under sections 11.9 d and f of the bylaw. The request involves the construction of a 4515 sq. ft. dwelling on a preexisting, nonconforming lot located at 41 South Water Street, Assr. Pcl. 20D-328 in the R5 Residential District.

1. On 11 July 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 July 12th and July 19th.
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, 31 July 2019 at 7:15 p.m. the public hearing was held in the Town Hall. The following board members were sitting for this hearing: Martin Tomassian – Chairman, Nancy Kelly – alternate, Carol Grant, Richard Knight, and John Magnuson.

Architect Patrick Ahearn was present for Peter DeFeo and Dara Frigoletto, who were also in attendance. Mr. Tomassian commented that although he can recall one or two instances when the board reinstated a permit that had lapsed as much as a year prior, he could not recall the board ever reinstating a permit that had lapsed ten years ago. He said that the board was under no obligation to reinstate a lapsed permit.

Ahearn explained that the original structure on the property was a 13-bedroom, two-family residence that was partially located on a neighboring lot. The 2009 application permitted the conversion of the existing structure into a one-bedroom 1290 sq. ft. guest house/boat house and the construction of a 4515 sq. ft., 3-bedroom main house – effectively reducing the number of bedrooms by nine. The section of the structure that was on the adjacent lot

was removed. Building permits were issued for both structures and the plans were approved by the Historic District Commission and the Conservation Commission.

Ahearn said that the project was recently reapproved by the Conservation Commission. Because there have been no changes made to the plans, no reapplication to the Historic District is required.

Knight asked why, if the lot now conforms to zoning with one 1290 sq. ft. residence, should the applicants be allowed another structure? The lot is just over 10,000 sq. ft. – not large enough to be allowed a guest house.

Magnuson commented that the board approved the project ten years ago. The only thing that has changed, he said, is the passage of time. The project has remained the same.

There was some discussion about continuing the hearing in order to consult with town counsel. Mr. Knight noted that he would not be available for a continuation until the end of August.

Ahearn said that the applicants would be willing to take the stove out of the boathouse structure so that it would no longer be considered a guest house.

Mr. Tomassian asked if there were any letters from town boards or departments. There were none.

Mr. Tomassian asked if anyone in the audience wished to speak in favor of the proposal. Norman Rankow, a direct abutter, said that he reviewed the plans and believes that the project will be an asset to the neighborhood. He noted that the new owners have agreed to register the same view easement as the Reeds. He commented that the board approved the same plan ten years ago as it was a good compromise and reduced the number of bedrooms.

Mr. Tomassian asked if any opponents wished to speak. Grace Romanowsky read a letter from her mother, Janice. Mrs. Romanowsky was concerned that the house would be too large and block off the view of the harbor.

Abutter Helene Lapman was also concerned about the view and noted that the view is currently blocked by trees that have grown up around the boat house.

Ahearn responded that both Mrs. Romanowsky and Mrs. Lapman were abutters ten years ago when the project was approved. He noted that Mr. DeFeo and Ms. Frigoletto have already recorded a perpetual view easement in the Registry of Deeds, which stipulates that a 20-foot view corridor be reserved to the left of the proposed house. He said that the house has been sunk down by the street in an effort to preserve the views as well as the hill of hydrangeas that currently exists on the property. Ahearn noted that the taller portion of the house is at the rear of the structure. In addition, the 20-foot view corridor will be enhanced by the fact that it abuts the Rankow garage, which is low enough to see over – effectively creating a 30-foot view corridor.

Ahearn said that trees near the boat house were planted according to a landscape plan approved by the Conservation Commission.

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

Mr. Knight asked about the view easement. Ahearn responded that it is the same easement that was proposed in 2009. Mr. Knight asked Mr. Ahearn to identify the easement on a plan and make it part of the record. [See file for annotated Illustrative Site Plan.]

Mr. Magnuson noted that in 2009 both the Lapmans and the Romanowskys reviewed and approved modifications to the main house, which ultimately led to the granting of the special permit, and the plans that are before the board tonight.

Mr. Magnuson made a motion to grant the special permit, noting that an identical plan had been approved by the board ten years prior. The following conditions were added to the permit.

1. An executed copy of the view easement is to be submitted to the Zoning Board prior to the issuance of any building permits.
2. No change to the plans approved by the Historic District Commission and the Zoning Board in 2009 are permitted.
3. Stove is to be removed from the boat house.
4. Building Inspector is to confirm that the new structure conforms to the approved 2009 plans.

Mr. Magnuson said that, with the conditions, he found the proposal to be in harmony with the general purpose and intent of the bylaw.

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

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

Respectfully submitted,

Lisa C. Morrison