

Case: 1-18  
Date Filed: 17 January 2018

## 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 Curt & Kathy Morley for a special permit under section 11.9 f of the zoning bylaw to expand an existing nonconforming two-story deck on a preexisting, nonconforming lot located at 5 Thaxter Lane, Assr. Pcl. 44-16.19 in the R-60 Residential District.

1. On 17 January 2018 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 January 19<sup>th</sup> and January 26<sup>th</sup> 2018.
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, 7 February 2018 at 7:00 p.m. the public hearing was held in the Town Hall. The following board members were sitting for this hearing: Martin Tomassian – Chairman, Richard Knight, Nancy Whipple, Carol Grant, and Ted Rosbeck – alternate.

Kathy Morley, owner and applicant, made the presentation. Ms. Morley said that her family has been renting in Katama for 25-years. Last year they had the opportunity to purchase this property on Thaxter Lane. Ms. Morley said that her family of six – she and her husband have four kids - spent some time in the house before deciding what they would like to do to improve the house. The house was built in 1994 and is an upside down house. She said most of the living space is on the second floor and she would like to expand the deck so that the family has a little more outdoor space. The current deck is quite small.

Ms. Morley said that she and her husband have decided to make the proposal somewhat smaller by (1) removing the stairway and (2) by narrowing the expansion along the NW side from 6-feet to 4-feet. A revised plan will be submitted for the file.

A good portion of the existing deck is nonconforming with respect to the 25-foot side yard setback. The expansion would also be partially nonconforming, but would go no closer to the setback than the existing nonconformity – 11.3 feet.

Ms. Morley submitted an email from her neighbors the Pellegrinos, whose property is adjacent to the deck and who would be most affected by the expansion. The Pellegrinos had no objection to the expansion.

Mr. Tomassian asked if there were any letters from town boards or departments. There were none. There was no one in the audience who wished to comment either pro or con. Mr. Tomassian then closed the public portion of the hearing for discussion among the board members.

Ms. Grant asked how the nonconforming deck was allowed to be built in the first place. The assistant replied that the property was part of a subdivision of half-acre lots that were grandfathered when the zoning changed from R-20 to R-60.

The board spent some time parsing sections 11.9 d and f of the bylaw. Section 11.9 d allows the board to expand a preexisting, nonconforming structure when “such expansion will not be more objectionable to, or detrimental to, the character of the neighborhood than the original preexisting nonconforming use or structure.” Section 11.9 f has the additional requirement that “...other lots in the neighborhood have been previously developed by the construction of buildings or structures in such a manner as to have resulted in similar nonconformities....”

Ms. Grant asked if there were decks in the neighborhood of similar size. Mr. Rosbeck said that the area seemed to have a lot of large decks. Ms. Grant asked if by allowing the deck to be expanded, it would be easier for the house to also be expanded out to that point.

Mr. Knight said that he did not see that allowing the deck to be expanded would set a precedent. Any additional expansion would require a new special permit.

Mr. Knight made a motion to grant the special permit saying that he did not find the expansion to be more objectionable or detrimental to the neighborhood. He noted that there were no objections from abutters, and that the abutters most affected by the project wrote in support. He noted that there were similar nonconformities in the neighborhood.

Mr. Tomassian seconded the motion and voted to grant the special permit for the same reasons.

Mr. Rosbeck, Ms. Grant, and Ms. Whipple also voted grant the special permit for the same reasons.

Respectfully submitted,

Lisa C. Morrison, Assistant