

Case # 9-18  
Date Filed: 27 February 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**  
**Owners/Applicants: Deluna LLC**  
**Assessor's Parcel: 29B-57**  
**Book: 1430 Page: 1076**

### PROCEDURAL HISTORY

1. Application is for a special permit under section 11.9 f of the bylaw for additions to a preexisting, nonconforming structure on a preexisting, nonconforming lot.
2. The property is located at 8 Atwood Circle in the R-5 Residential District.
3. A public hearing - after proper notice was given to abutters, town departments, and placed in the *Vineyard Gazette* - was held on Wednesday, 21 March 2018 in the Town Hall.
4. The application was accompanied by a site plan (Schofield, Barbini & Hoehn – 7 June 2017) and elevations and existing conditions (Patrick Ahearn – A1-A6).
5. The Board reviewed the application, the plans, and all other materials and information submitted prior to the close of the public hearing. [See Record of Proceedings].

### FACTS

1. The property consists of a preexisting, nonconforming 7439 sq. ft. lot in the R-5 Residential District. A conforming lot in the R-5 district is 10,000 sq. ft.
2. The existing house meets setbacks, but is nonconforming with respect to height: the ridge height is 33-feet 4-inches; 1-foot 4-inches higher than the 32-foot height restriction. The existing garage is preexisting nonconforming with respect to the rear setback.
3. The applicant is proposing minor additions to the footprint: (1) a 10-foot by 15-foot sunroom with deck above, (2) a small mudroom connecting the house to the garage, (3) and a small front porch entry way, and (4) a second floor addition in the footprint of an existing second floor deck. All additions conform to setbacks.
4. There will be no change in dimensions of the preexisting, nonconforming garage. The only proposed work on the exterior of the garage will be reshingling and the addition of a cupola and new skylights.

5. There will be no change in the ridge height of the restored dwelling, which will remain no higher than 33-feet 4-inches.

#### FINDINGS:

The Board finds that the proposal complies with the provisions of 11.9 f necessary for the granting of the special permit for the following reasons:

1. It is in harmony with the general purpose and intent of the bylaw. The proposed additions will not be more objectionable or detrimental to the neighborhood than the existing dwelling and the site is appropriate.
2. The project is primarily a restoration and will not extend or expand any nonconformities and will not be more objectionable to the neighborhood than the existing nonconformities.
3. The applicant has agreed to repair any damage that occurs during construction to the retaining wall on the Wallace property.
4. There were no objections to the project from either town boards or departments. No abutters objected to the design of the project.

Based on the above findings and reasons, the Board voted in favor of granting the special permit 5-0.

#### CONDITIONS

1. Should the neighbor's retaining wall be damaged during any phase of construction, the applicant will repair the wall in the same style and with compatible materials as the existing retaining wall.
2. Exterior construction/demolition will not begin until after Labor Day 2018.

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: 9-2018.

Board of Appeals,

Lisa C. Morrison, Assistant

Note: This decision was filed in the office of the Town Clerk on 26 March 2018. 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.

\_\_\_\_\_2018  
I hereby certify that no appeal has been filed in the twenty-day period following the date of filing this decision.

Attest: \_\_\_\_\_