

Case # 4-18
Date Filed: 5 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
Owner/Applicant: Andrew M. Rosenberg
Assessor's Parcel: 21-153
Book: 1457 Page: 416

PROCEDURAL HISTORY

1. Application is for a special permit under section 11.9 f of the bylaw to construct an 18-foot by 40-foot swimming pool on a preexisting, nonconforming .94-acre lot.
2. The property is located at 28 Fisherman's Knot Road in the R-60 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, 28 February 2018 in the Town Hall.
4. The application was accompanied by a plot plan dated 11 October 2016 by Vineyard Land Surveying.
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 .94-acre lot in the R-60 Residential District. A conforming lot in the R-60 district is an-acre-and-a-half.
2. The lot is located in a neighborhood of primarily acre-sized lots that became nonconforming when the town changed the dimensional requirements from .5 an acre to 1.5 acres in April of 1980.
3. The applicant is proposing to construct an in-ground swimming pool in a low area adjacent to the rear of the house and currently used as a patio with retaining walls on two sides. The pool conforms to the required setbacks.
4. The proposed pool will be surrounded by a four-foot fence and shrubbery. Approximately three-quarters of the perimeter of the property is surrounded by additional shrubbery.
5. The pool equipment will be located in a 4-foot by 7-foot sound proof shed situated on the east side of the house.

6. There were no letters of objection from either town boards or abutters and no one in the audience to speak either pro or con.
7. There are a number of pools on similarly sized lots in the area.

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, which allows swimming pools on single-family lots in residential neighborhoods. A special permit is needed only because the lot area is .94 of an acre, less than the required acre-and-a-half for a conforming lot in R-60.
2. Because of the proposed sound mitigating measures, the pool will not be more objectionable or detrimental to the neighborhood.
3. The pool and pool equipment are located in a central portion of the lot, and not close to neighboring lot lines.
4. There were no objections to the project from any town boards or departments, or from any abutters or other members of the community.

Based on the above findings and reasons, the Board voted in favor of granting the special permit 4-1.

CONDITIONS

No additional conditions were placed on the 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: 4-2018.

Board of Appeals,

Lisa C. Morrison, Assistant

Note: This decision was filed in the office of the Town Clerk on 2 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: _____