

Case: 10-18
Date Filed: 27 February 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 Brad Jensen and Carolyn Blackwood for a special permit under section 11.9 f of the zoning bylaw to demolish an existing residence and construct a new residence, garage, and wading pool on a preexisting, nonconforming lot located at 16 Pent Lane, Assr. Pcl. 20D-50 in the R-5 Residential District.

1. On 27 February 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 March 2nd and March 9th 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, 21 March 2018 at 7:30 p.m. the public hearing was held in the Town Hall. The following board members were sitting for this hearing: Martin Tomassian – Chairman, Carol Grant, Nancy Whipple, Ted Rosbeck - alternate, and Robin Bray – alternate.

Architect Patrick Ahearn made the presentation for the applicants, Carolyn Blackwood and Brad Jensen – who were also present and had traveled from California for the hearing.

Ted Rosbeck made it known that he owns a pool company, but has not been contacted about this job. He said he believes he can be impartial, but asked if there were any objections to his sitting on the hearing. There were none.

Mr. Ahearn began the presentation by directing the board to a plan of the immediate neighborhood showing the footprints of all the houses, and highlighting in blue all the pools, and in black the garages or carriage houses. There are a dozen pools and perhaps 17 garages or carriage houses in the area.

Mr. Ahearn said that, as part of his research, he looked at recent approvals from the board on lots less than 10,000 sq. ft. that included pools and carriage houses. In August of 2017, the board approved the construction of a 24-foot by 24-foot garage and a 12-foot by 27-foot pool on an 8275 sq. ft. lot at 77 Cooke Street. [See exhibit A in file]

The board also approved a new two-car carriage house (with detached bedroom above) and pool at the former Shiverick Inn. Mr. Tomassian commented that he thought the board may have made a mistake with that approval.

Mr. Ahearn noted that the zoning bylaw does not have a lot coverage restriction, but commented that the ratio of lot coverage at the Shiverick property is 44%. The current proposal the lot coverage ratio is 34%. [See exhibit B]

Mr. Ahearn then focused on 100 Main Street – the Dyroff property. The 7405 sq. ft. lot has a main house with a footprint of 2149, a guest house with a foot print of 302 sq. ft., and a 54 sq. ft. outbuilding – for a total lot coverage of 33%. [See exhibit C]. Mr. Ahearn noted that while Mr. Dyroff objects to his clients putting in a pool, he bought a house that has a pool diagonally across from it. Mr. Ahearn commented that the abutter who would be most impacted by the pool, Agnes Williams, supports the project.

As a final example, Mr. Ahearn cited the former Achelis house at the corner of School and Cooke Streets. That project has a main house with a footprint of 1895 square feet, a 550 sq. ft. carriage house, a 235 sq. ft. cabana on a 7600 sq. ft. lot and a total lot coverage ratio of 35%. [See exhibit D]. Mr. Tomassian commented that the property is quite a ways away from Pent Lane.

Mr. Ahearn said that he has read the letters of objection from two concerned abutters: the Dyroffs and the Croteaus. He said he believed that another abutter, Mr. Tankard, had no problem with the design of the house or carriage house, but objected to the location because of the Stewardia tree. Mr. Ahearn noted that the tree is ten-feet from the house. He said that the applicants plan to preserve and protect the tree and will hire an arborist during construction. Mr. Ahearn noted that the Stewardia is not a public shade tree as it is not in the public setback and, as such, is not in the town's jurisdiction.

Mr. Ahearn said that the current design is the result of much discussion with the abutters [see letter from Ahearn to the board dated 14 February 2018]. He noted that Mr. Dyroff's primary objections have always been to the pool. The current pool is modest in size and not visible from any public way. The main house completely blocks the pool from the Dyroff property.

Mr. Ahearn said that they made many concessions to the Croteaus, such as lowering the house by a foot and eliminating a second floor deck. Mr. Ahearn noted that the Croteaus had two opportunities to purchase the property if they really didn't want to see anything built there.

Mr. Ahearn said that his clients read through the minutes of the meetings with the Historic District, and attempted a modest proposal that would move the existing house to the front of the lot and build a new house at the rear of the property. However, no one liked that plan, and it was withdrawn before the hearing.

Mr. Ahearn said that in the course of many discussions with neighbors, the house he designed at 10 Pent Lane was often cited as example of what is appropriate for the neighborhood. The current design is based on the house at 10 Pent Lane, only smaller.

Mr. Ahearn said that it appears that the Croteaus are not in favor of any proposal that has a garage even though they have a garage next door on a similarly sized nonconforming lot.

Mr. Ahearn said that Mr. Dyroff did not like the placement of the house right on Pent Lane and that it would create a 'wall.' Mr. Ahearn said that the majority of houses on this side of Pent Lane are built close to the street and there is adequate open space preserved on the street side.

Mr. Ahearn commented that the figures cited in the in the Croteau letter are wrong: the living space of the proposed house is 1998 sq. ft. not 2983 sq. ft. The living space in the carriage house is 347 sq. ft. not 725 sq. ft.

Mr. Ahearn commented that the usual design in the historic village is to have the main house on the street and a garage or out-building in the rear of the lot. The current house, located at the rear of the lot, is the anomaly.

Mr. Ahearn noted that the pool equipment will be housed inside the carriage house and will be sound-proofed. He said that the pool is only 3-feet deep and is essentially a large hot tub. As stated before, the neighbor most likely to be affected by the pool, Ms. Williams, is in favor of the pool.

Mr. Tomassian commented that the board turned down a pool on the Caraboolad property, which backs up to Pent Lane.

Mr. Ahearn noted that in addition to the tree, a majority of the green space on the lot will be preserved. The total lot coverage is 34%, in line with a many properties in the neighborhood. Mr. Ahearn noted that the Croteaus' backyard is currently concrete and Mr. Dyroff's is mostly brick.

Mr. Ahearn noted that the project has received significant neighbor support. His letter to the board contained approvals from six abutters, representing nine separate parcels: the Dohertys, Marsha Mills Ahearn (Mills Family Realty Trust), Dan Pfau, Agnes Williams, and Tim Caraboolad.

Carolyn Blackwood then addressed the board. She said that she had hoped that their proposal would not be controversial with the neighbors. She said that she read through all the minutes of the Historic District, which reviewed several designs prior to her purchase of the property. She said that she has always had good relationships with her neighbors in all the other places they have lived. Ms. Blackwood said that she and her husband really want to be part of the community, and that they have bent over backwards to accommodate their neighbors.

She said she found it ironic that Mr. Dyroff has a problem with their little pool as he has a huge trampoline in his backyard. She said she has never heard anyone jump quietly on a trampoline.

Ms. Blackwood said that in discussions with the Tankards, the Dyroffs, and the Croteaus they all seemed to like the design of 10 Pent Lane so she and her husband decided to go in that direction, and even go one step further by shrinking it down further.

She said that no matter what they try to do to please the neighbors, there always seems to be objections. She said that she is beginning to think that they just don't want to see the lot built on, and will do all they can to delay any proposal they may bring forward.

Ms. Blackwood concluded by saying that she used to come to Edgartown as a child, and that she and her husband believe Edgartown is special and they want to preserve that and share it with their family.

Mr. Tomassian asked if there were any letters from town boards. There were none. All the board members had copies and had read the letters of concern from Mr. & Mrs. Croteau, Mr. & Mrs. Dyroff, and Mr. Tankard. Members also had copies and had read the letters of support alluded to by Mr. Ahearn earlier in the meeting. A letter of support from Gerry Conover was read.

Mr. Tomassian asked if there was anyone present who wished to speak against the project. Mary Ellen Croteau of 18 Pent Lane had a number of concerns. She said her husband also wished to be present, but his ferry was cancelled.

Ms. Croteau said that she has heard a lot of comparisons to other houses in the neighborhood from Mr. Ahearn, but little comparison between what currently exists on the property and what is proposed. The existing dwelling is a one-story 676 sq. ft. structure. The current proposal has five-and-a-half times the living space.

Ms. Croteau submitted a plan for a three-bedroom residence located at the rear of the lot with no pool and no outbuildings, which she and her husband would approve. She also submitted a study showing how the current proposal would affect the shadows on her property.

She said that she is concerned about the increasing the density in the neighborhood and finds the massing of this proposed structure troublesome.

Mr. Ahearn responded again that the numbers in the Croteau letter are wrong, because basements are not counted as living space. The proposed house has 1998 sq. ft. of living space, not 2983 sq. ft.

Mr. Ahearn noted that prior to the Bransford decision back in 2005, the proposed project could be built as of right. Mr. Ahearn said that, in his opinion, what changed Edgartown was when the R-5 lot size was increased from 5000 sq. ft. to 10,000 sq. ft. without increasing the setbacks. Now, huge houses can be built on conforming lots – 32-feet high and right out to the 5-foot setbacks.

He said that density is what makes a village a village. It is *scale* that is the problem. He said that this project is in scale with the neighborhood. The adjacent Croteau lot is just 674 sq. ft. larger than the Jensen property, and the houses are comparable; the total difference in the footprint of the structures on the two lots is just 12 sq. ft.

Mr. Ahearn said that with a ridge height of 25-feet 7.5 inches - well below the permitted 32-foot height - the proposal is of similar height and massing to several other structures on Pent Lane as shown in A-3 and on the Pent Lane Height & Massing Diagram [See file.]

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

Ms. Whipple said she thought the proposal was well thought out and appropriate. She said she believed that the applicants had 'jumped through hoops' to cooperate with the neighbors. She said that she believed the project preserved adequate green space and would have tremendous curb appeal.

Ms. Grant said that she was somewhat hesitant about approving the pool, but the letter of support from the neighbor most affected changed her mind. She said she doubted anyone else would be affected by the pool. She said that being only 3-feet deep, she did not consider it a 'party pool.'

Ms. Bray said that she was sensitive to shading issues, but noted that if the house was moved to the rear of the property, the garage would still occasionally shade the Croteau house.

Mr. Tomassian asked Ms. Croteau about the origin of the shading study she submitted. Ms. Croteau said that they are from a computer program.

Mr. Tomassian commented that although he understands that change has to happen, he finds the house a little too large. He also said that he think pools are appropriate in the downtown area.

Mr. Rosbeck said that he disagrees about the streetscape. He said that he thought the current house looked out of place when he visited the site. He said he believes this new proposal would actually improve the streetscape. Being a pool contractor, he is aware that he brings a different perspective to the issue of pools in the downtown area. He said that modern pools are not noisy, especially when the pool equipment is enclosed as it will be in this proposal. He said that children do make noise in a pool, but they do the same on trampolines or playing basketball. He said that this is the smallest pool he has ever seen, and noted that there are pools all over downtown Edgartown. He commented that the pool is completely screened from the street by the house and from the Croteaus by the garage.

Ms. Grant made a motion to grant the special permit saying that she found the proposal to be in harmony with the general purpose and intent of the bylaw. The house is in scale with other houses in the neighborhood and is on a similarly sized lot. The overall lot coverage of 34% is also comparable with other properties in the neighborhood. She said that while several neighbors do not support the project, others in the neighborhood do. She said she believed that the applicants did their best to accommodate the neighbors' concerns in their revised design. She said she did not believe that the proposal would be detrimental to the neighborhood as a whole.

Ms. Whipple seconded the motion and voted to approve the project for the same reasons.

Mr. Rosbeck and Ms. Bray also voted to grant the special permit for the same reasons.

Mr. Tomassian did not vote to grant the special permit, because of the pool.

Respectfully submitted,

Lisa C. Morrison, Assistant