

Case # 37-2016  
Date Filed: 22 November 2016

## DECISION AND FINDINGS OF THE ZONING BOARD OF APPEALS

**Re: Request for a variance to section 5.4 of the Edgartown Zoning Bylaw**  
**Applicant/Owner: Joyce & Russell Swartz**  
**Assessor's Parcel: 21-23**  
**Book: 229 Page: 375**

### PROCEDURAL HISTORY

1. Application is for a variance to section 5.4 of the bylaw that requires a minimum of 21,780 sq. ft.
2. The Property is located at 3 Dory Circle, in the Fair Isle Acres subdivision in the R-20 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, 14 December 2016 in the Town Hall.
4. The application was accompanied by a subdivision plan dated October 1968.
5. The Board reviewed the application, the plans, and all other materials and information submitted prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing [See Record of Proceedings].

### FACTS

1. The Property consists of a 20,938 sq. ft. lot abutting another lot owned by the applicants, which is also substandard at 21,040 sq. ft.
2. The applicant constructed a main house on the larger lot in 1979 and a garage in 1996. The main house is 1830 sq. ft. and has three bedrooms and two baths. The applicants have lived in the house for 35-years.
3. The proposed single-family dwelling to be built on the smaller lot would be for the applicants' daughter and her family.

4. The majority of structures in the subdivision are built on similarly sized nonconforming lots.
5. Applicant has attempted several times over the years to purchase additional land from abutting neighbors but has been unsuccessful.
6. Because of a steep bank on the northern property bound, which separates this lot from the Mariner's Way subdivision, no expansion in that direction would be possible.
7. There were no objections to the proposal from any abutters or members of the public. Two abutters wrote letters of support.

#### FINDINGS:

The Board finds that the proposal complies with the provisions necessary for the granting of a variance because:

1. There are topographical features of the property that affect this lot specifically and not others in the same zoning district.
2. The lot is just 840 sq. ft. shy of the necessary area to be a conforming lot. The majority of houses in the area are on similarly sized lots.
3. Desirable relief can be granted without nullifying or substantially derogating from the intent of the bylaw and without substantial detriment to the public good.

#### DECISION

Based on the above findings and reasons, the Board voted unanimously (5-0) to grant the variance.

#### CONDITIONS

No additional conditions were placed on the variance.

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: 37-2016.

Board of Appeals,

Lisa C. Morrison, Assistant

Note: This decision was filed in the office of the Town Clerk on 14 December 2016. 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.

\_\_\_\_\_2016

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

