

Case No.: 17-15
Date filed: 29 April 2015

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 Alex Miceli for a variance to section 7.4 of the zoning bylaw to allow an existing deck built 14-feet from the property boundary to remain, and to allow the construction of an additional deck 23-feet 9-inches from the property boundary. The property is located at 155 Litchfield Road, (Assr. Pcl. 34-28.23) in the R-120 Residential District.

1. On 29 April 2015, a true copy of the application, 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 May 1st and May 8th 2015.
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, the 29th of April 2015 at 7:00 p.m. the public hearing was held in the Town Hall. The following board members were sitting for this hearing: Richard Knight – acting chairman, Nancy Whipple, John Magnuson, Carol Grant, and Robin Bray – alternate.

Chuck Sullivan, architect, was present for the applicant. Mr. Sullivan gave a brief history of the property. Mr. Miceli bought the property from Eric Ropke in 2012. There were some things on the house that needed to be finished and the Micelis hired an Oak Bluffs contractor to complete the work. Unfortunately the deck was not built according to the building permit and the setbacks were not verified by either the owners or the contractor. Mr. Sullivan said that when he was hired, he presumed that the deck was preexisting, nonconforming. Mr. Miceli hired him for an office addition – which meets the setbacks

and did not require zoning approval. The proposed deck off the office would project into the sideyard setback by one-foot, three-inches structure. Mr. Sullivan thought that because the house was preexisting, nonconforming this additional deck could be considered by the board. Mr. Sullivan noted that the property abuts the Land Bank, so it is unlikely that any structures will be built on the adjacent property. The deck will not be more than 30-inches of the ground and will not have a railing. Even though the deck is less than 3-feet, it is considered a structure by the zoning inspector because it is connected to the house. Mr. Sullivan said that Mr. Miceli is hoping that the board will consider issuing a variance and placing conditions on the decks, such as: no expansion, no change in height, no roof.

Mr. Knight commented that the board does not like to allow building in the setbacks, especially when the lot itself conforms. This lot is larger than 3-acres.

Mr. Magnuson and Ms. Grant both noted that the request does not satisfy *any* of the four requirements that the board looks at when granting a variance: there are no special circumstances relating to soil conditions, shape, or topography; there are no circumstances that specifically relate to this property and prevent the literal enforcement of the bylaw or cause substantial hardship; desirable relief cannot be granted without nullifying and derogating from the intent of the bylaw; or without detriment to the public good. Magnuson noted that a corner of the existing deck could be cut off to make the structure conforming. Because of these reasons, Mr. Magnuson made a motion to deny the variance. He said that he believed that the construction was probably an accident, but that it should not be allowed to stay.

Nancy Whipple seconded the motion, and voted to deny the request for the same reasons.

Ms. Bray voted to deny the request for the same reasons.

Ms. Grant voted to deny the request for the same reasons.

Mr. Knight also voted to deny the request for the same reasons.

Respectfully submitted,

Lisa C. Morrison, Assistant