

Case No.: 18-15
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 Stephen C. Olsson for a special permit under section 11.9 f of the zoning bylaw to allow the installation of a swimming pool on a nonconforming lot located at 38 Old Indian Trail (Assr. Pcl. 34-3) 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 7:15 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.

Mr. Olsson was present as was Josh Yates, who prepared the plan. Mr. Olsson stated that the plan for the pool was approved by the Board of Health, but because the lot is 2.8 acres the Building Inspector referred him to the Zoning Board for a special permit. Mr. Olsson said that he bought the property from Vivian Cassat in June of 2014, and thought he was purchasing a 3-acre lot. He said he was unaware that there were cross-claims on .2 acres. He said that his attorney is working on clarifying the title.

Mr. Olsson stated that the pool meets all the necessary setbacks. He said that it will have the required gates and fencing and will be screened. He said he did not think that it

would have any effect on the neighbors.

Mr. Knight asked if there were any letters from town boards or departments. There were none. Letters from abutters David Ames, Jr.; Shelley Wilbur; Joan & Siamak Adibi; Thomas Pike were read. All were vehemently opposed to the installation of a pool, citing excess noise, intrusive lighting, and loud music from the existing two pools on the adjacent Olsson properties. The abutters pointed out that these are strictly rental properties operated for financial gain and with little or no oversight.

Mr. Knight asked if there was anyone in the audience who wished to speak in favor of the proposal. Scott Frasier, a heating and cooling contractor who does work for Mr. Olsson, said that he has not witnessed any parties on the property. He said that he lives on Pippin Lane and has never been disturbed by noise from the Olsson property, but he has been disturbed by noise from Mr. Monterosso's shooting range.

Paul Colette, owner of Holiday Pools, the prospective installer, also spoke in favor of the project.

Ron Monterosso spoke in opposition. He said the shooting range has not been used since last November. Mr. Monterosso said that the property in question already received a special permit to triple the size of the house and convert the existing camp to a guesthouse. He noted that a title search indicates that the .02 acres claimed by Mr. Olsson are also claimed by the town and is no minor issue.

Mr. Monterosso submitted copies of advertisements describing Mr. Olsson's properties as a rental compound. He submitted photos of a pool party on Mr. Olsson's property that was posted on-line. Mr. Monterosso said that pool by their very nature cause people to congregate and the noise of conversation and music is amplified over water. He said that Sampson's Hill is otherwise a quiet neighborhood.

Pamela Lindgren commented that even though Mr. Olsson says that the properties are rented by individuals they are, in fact, all connected by internal roadways and advertised as having shared facilities.

Mr. Olsson began his rebuttal saying that the pools are only used by the individuals renting that specific house. He said that there are no outdoor stereo systems. He said that the tennis court is sometimes shared. He said that he does his best to control any noise on his property and showed the board an informational sheet that he passes out to all his renters reminding them of Edgartown's noise ordinance, which is in force from 10 p.m. to 7 a.m.

Mr. Knight then closed the public portion of the hearing for discussion among the board. Ms. Whipple asked if Mr. Olsson stayed in any of the properties. Mr. Olsson replied that he stays in different houses at different times when they are not rented, but that he lives in New Hampshire. Mr. Olsson says that he rents to families mostly, not to college kids.

Ms. Grant asked if there was an on-site caretaker. Mr. Olsson says that his caretaker does not live on the premises, but does live on Chappy, and is always accessible.

Ms. Bray commented that it is a difficult issue when there are intensive seasonal rentals in a residential neighborhood. She asked if any of the neighbors had called the police with noise complaints.

Ms. Lingren said that they have called, but it is difficult to get the police to respond to noise complaints on Chappy. It takes them so long to get over on the ferry that the party is often over by the time they get there. Mr. Monterosso said that he did not know there was a caretaker, and has never been given his number.

Mr. Monterosso commented that it is just the nature renting out houses with pools: there are going to be pool parties. He said that it is often loud during the day as well. He said that he already has pools on two sides of his property; he doesn't want one on the third side.

Ms. Whipple told Mr. Olsson that she thinks he has been a very poor neighbor and is very much opposed to the proposal. She said that there is no assurance that Mr. Olsson will be able to get title to the additional land and be able to install the pool by right. She said she was very disappointed in the situation.

Mr. Magnuson agreed that adding a third pool in a congested area already plagued by noise would be a mistake. He noted that the property had already received a special permit for a substantial expansion.

Ms. Grant said that she was also opposed the proposal and made a motion to deny the request, saying that she did not believe the project was in harmony with the general purpose and intent of the bylaw. She said she believed the project would be detrimental and objectionable to the neighborhood as evidenced by the strong opposition of the abutters. She said she did not think that the site was appropriate, and that the project did not satisfy the conditions outlined in sections 11.9 (f) and 11.6 (a) of the bylaw.

Ms. 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.

Mr. Magnuson 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

