

Case: #16-2013

Date Filed: 2 April 2013

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 application of Coleen M. Sweeney for a special permit under section 11.9 f of the zoning bylaw to construct a swimming pool and an art studio/pool house on a preexisting, nonconforming lot located at 10 Mockingbird Lane, Assr. Pcl. 7-40 in the R-60 Residential District.

1. On 2 April 2013 the application, a true copy of which was marked "A," was presented to the Town Clerk.
2. An advertisement, a true copy of which is marked "B," was published in the Vineyard Gazette online on 8 April through 24 April 2013 and in the Gazette on 19 April 2013.
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.
4. Notice of the hearing also appeared on the town's website beginning 8 April 2013.

On Wednesday, the 24th of April 2013 the public hearing was held in the Town Hall. The following board members were sitting for this hearing: Richard Knight – acting chairman, John Magnuson, Nancy Whipple, Carol Grant, and Nancy Kelly – alternate.

The notice was read and Mr. Knight opened the hearing. Chuck Sullivan, attorney, was present for the applicant, as was attorney Howard Miller, landscape architect Lil Province, and landscape contractor, Brian Packish. Mr. Sullivan said that Ms. Sweeney would like to construct a 20-foot by 40-foot pool and a 16-foot by 24-foot combination art studio/pool house. Mr. Sullivan said that the applicants have agreed to place a deed restriction on the property, as stipulated by the Board of Health, that the pool

house/studio will not be used for habitation. Mr. Miller submitted a letter from the homeowners association indicating their approval of the project.

Abutter Sean Murphy noted that the landscaping has already begun and said that he believes it will be an improvement, as the land was overgrown and neglected. He commented that there are already two illegal apartments on Mockingbird.

Suzanna Nickerson, a resident of Dodger's Hole, was concerned about the effect of the fencing on the wildlife pathways. She noted that she has observed otters in Dodger's Hole. She said she did not think that chain link fencing was very friendly.

Mr. Sullivan commented that state law requires fencing around any pool. He said that a traditional white fencing will be used on portions of the property that abut the public roadways.

Mr. Kaitz, Ms. Sweeney's husband, said that the intent will be to plant out the chain link fence so that it disappears. As a compromise, Mr. Sullivan and Mr. Kaitz proposed reconfiguring the fence around the studio in such a way as to leave the bottom corner of the property unfenced [see revised plan in file].

Mr. Kaitz said that the studio is in no way intended to be a guesthouse; he said his wife is an artist and will use the studio as a studio. A portion of the structure will also house pool equipment.

A letter from the Ivory Family of 9 Flamingo Drive was read. Among their concerns were the size of the studio, the fencing, and the recent clear-cutting of the property.

A letter in favor of the project from Bob Butcher, an abutter, was also read.

The assistant made it known that the Board of Health will require a new septic plan, in addition to the deed restriction.

Mr. Sullivan began the rebuttal by saying that Ms. Sweeney has plans to replant the entire property and reiterated that the chain link fence will be planted in such a way that it will disappear.

Mr. Kaitz said that when they purchased the property, there were many dead and dying trees that they were concerned could damage the house. He said that they plan to begin implementing a landscape plan as soon as possible.

Lil Province then submitted a copy of the landscape plan and reviewed it with the neighbors.

Ms. Kelly said she thought that after the landscaping is done, the lot will look fine. She said she did not have a problem with the proposal.

Ms. Grant agreed, and said that she did not have a problem with the proposal provided there is a deed restriction covering the studio.

Mr. Magnuson said he was surprised that no one commented on the swimming pool. He noted that the applicant can fence his entire property by right. Mr. Knight noted that the applicants had made a neighborly compromise.

Ms. Whipple made a motion to grant the special permit, saying that she believed the site to be appropriate and the project in harmony with the general purpose and intent of the bylaw. She said she believed the abutters' concerns were adequately addressed and did not believe that the project would be detrimental to the neighborhood. She included in her motion that a deed restriction be placed on the studio/pool house so that it could not be used for habitation.

Mr. Magnuson seconded the motion and voted to grant the special permit for the same reasons and with the same condition.

Ms. Grant voted to approve the project for the same reasons and with the same condition.

Ms. Kelly voted to approve the project for the same reasons and with the same condition.

Mr. Knight also voted to approve the project for the same reasons and with the same condition.

Respectfully submitted,

Lisa C. Morrison, Assistant