

Case: #18-2013

Date Filed: 29 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 Jess & Linda Shapiro and Nicole Brisson for variances to section 5.4 of the zoning bylaws. The Shapiros own the structure designated as 27 Plain Field Way (Assr. Pcl. 28-31.91); Ms. Brisson owns the structure designated as 19 Road to the Plains (Assr. Pcl. 28-31.92); and the land is owned by the Plain Field Way Condominium Association and is in the R-20 Residential District.

1. On the 29 April 2013 the application, a true copy of which was 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 3rd and May 10th 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.

On Wednesday, the 22nd of May 2013 at 7:15 p.m. the public hearing was held in the Town Hall. The following board members were sitting for this hearing: Martin Tomassian – Chairman, Nancy Whipple, John Magnuson, Nancy Kelly – alternate, and Robin Bray – alternate.

The notice was read and Mr. Tomassian opened the hearing. Mr. Shapiro began the presentation by introducing himself and his wife and his co-applicant, Michael Brisson. Nicole Brisson had to be off-island on family business. Mr. Shapiro explained that this application is very similar to the Smith/MacDougall request back in March. These lots were also converted into condos by Herman Hipson back in 1989. It was not until the Smiths tried to sell their property that an attorney caught the fact that the structures were illegal condos. Apparently Mr. Hipson thought that he could make more money if he

converted the structures from house and guest house to condominiums. Mr. Shapiro noted that the structures look and act like separate homes – there is no visible connection between them. Both families have valid deeds of ownership. Mr. Shapiro said that it is only recently that they became aware of the zoning irregularity and are now trying to fix it. Both properties had been bought and sold a number of times before the zoning issue was discovered.

The applicants are asking for variances to dissolve the condominium association and create two substandard lots that could be sold independently. Each will independently hook up to town sewer and water.

Mr. Tomassian asked if there were letters from town boards or departments. There were none. There were no letters from abutters and no one in the audience who wished to comment, either pro or con.

Mr. Tomassian noted that he had spoken with the building inspector about this situation, and both agreed that the situation should be cleaned up. He said that he did not believe there were too many of these irregularities left. Mr. Tomassian urged the applicants to speak with their bank or mortgage lender as the legal description of the property will change.

Mr. Tomassian explained that in order for the board to grant a variance, four separate criteria need to be satisfied. He noted that the first criteria does not apply in this case: there is nothing specific relating to the soil conditions, shape, or topography of this lot which makes literal enforcement of the bylaw impossible. There are circumstances that affect this lot specifically, but they are not related to soil or topography. Mr. Tomassian said that, should the board decide to grant the variance, they would be ‘going out on a limb.’

Mr. Magnuson noted that this situation is identical to the Smith/MacDougall case the board ruled on in March. He noted that there will be no change in how the buildings or the land is used if the board decides to grant the variances.

After some further discussion, Ms. Whipple made a motion to grant the variances. She said she believed that the proposal meets most of the required criteria. She said she believed the board could grant the variances without ‘nullifying or substantially derogating from the intent of purpose of the bylaw and that such relief may be granted without substantial detriment to the public good.’

Mr. Magnuson seconded the motion and voted to grant the variances for the same reasons.

Ms. Bray voted to approve the variances for the same reasons.

Ms. Kelly voted to approve the variances for the same reasons.

Mr. Tomassian also voted to grant the variances for the same reasons.

Respectfully submitted,

Lisa C. Morrison, Assistant