

Case # 35-20
Date Filed: 23 November 2020

DECISION AND FINDINGS OF THE ZONING BOARD OF APPEALS

Re: Request for a special permit under section 10.1 G of the Edgartown Zoning Bylaw
Applicant/Owner: 4 Plantingfield Way MV, LLC (Scott Morgan)
Assessor's Parcel: map 20D lot 7
Book: 1488 Page: 541

PROCEDURAL HISTORY

1. Application was for a special permit under section 10.1 G of the zoning bylaw to allow the construction of a 12-foot by 32-foot pool with spa and a 10-foot by 32-foot pool equipment shed on an 8200 sq. ft. nonconforming lot in the R-5 Residential District.
2. A public hearing - after proper notice was given to abutters, town departments, and placed in the *Vineyard Gazette* – was held on Wednesday, 16 December 2020 via Zoom.
3. The application was accompanied by a site plan (Vineyard Land Surveying – 1 November 2020) and a detail of the proposed pool equipment shed (Sam Sherman Associates – 28 October 2020).
4. 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 preexisting nonconforming 8,200 sq. ft. lot in a neighborhood with adjacent lots of similar sized lots.
2. The pool and the equipment shed were proposed in locations that were just outside of the 5-foot required rear and sideyard setbacks and adjacent to three separate properties.
3. Three sets of immediate abutters attended the hearing and expressed concerns about the negative effects of the proposed development on their property. These concerns included: noise from mechanical equipment, lack of privacy, effect of excavation on an adjacent retaining wall, and loss of their ability to peacefully enjoy their property [See Record of Proceedings].

FINDINGS:

The Board finds that the proposal does not comply with the provisions of 10.1 G or 10.2 A 1 of the bylaw and is not in harmony with the general purpose and intent of the bylaw for the following reasons:

1. The pool and the pool house are sited in such a way that they are closer to the adjacent residences than they are to the applicant's residence. Consequently, both the pool and the pool equipment shed have the potential to negatively impact the privacy and peaceful enjoyment of those neighbors.
2. The board finds that *as presented* the site is not appropriate for such development, which would likely have an adverse affect on the neighborhood.
3. The board finds that safeguards to prevent negative impacts on the adjacent abutters, such as noise and loss of privacy, were not adequately addressed.

DECISION

Based on the above findings and reasons, the Board voted 5-0 to deny the special permit.

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: 35-2020.

Board of Appeals,

Lisa C. Morrison, Assistant

Note: This decision was filed in the office of the Town Clerk on 28 December 2019. 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.

_____2020

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

Attest: _____