

Case No. 35-20  
Date Filed: 23 November 2020

### 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 Scott Morgan for a special permit under section 10.1 G of the bylaw to construct a swimming pool, spa, and equipment shed on a preexisting, nonconforming lot at 4 Plantingfield Way (Assr. Pcl. 20D-7) in the R-5 Residential District.

1. On 23 November 2020 the application, a true copy of which is 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 27 November and 4 December 2020.
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, 16 December 2020 at 4:00 p.m. the hearing was opened and held via Zoom. The following board members were in attendance: Martin Tomassian – Chairman, Carol Grant, Nancy Whipple, John Magnuson, and Pamela Dolby. Chairman Tomassian introduced the board members and read the necessary requirements for conducting remote meetings in compliance with both the Governor's order and the Open Meeting Law.

Reid Silva of Vineyard Land Surveying was present for the applicant. Silva explained that the proposal is to construct a 12-foot by 32-foot pool and spa, and a 10-foot by 16-foot pool shed on a 8200 sq. ft. nonconforming lot. Silva said that he is aware of a letter sent by the immediate neighbor, Jeff Rodek, who has a patio just on the other side of the fence from the proposed pool. He said he believes that the applicant would be willing to adjust the location of the pool.

Mr. Tomassian said he had been out to the site and shared several photographs that illustrate the proximity of the two properties and the proposed location of the pool.

Mr. Tomassian asked if there were letters from town boards or departments, there were none.

A letter of objection from the immediate abutters, Jeffrey & Christine Rodek, was circulated among the members and the applicant's representatives prior to the hearing.

Mr. Rodek was present for the Zoom call and told the board that he had serious concerns about the proposal. He said that he has lived in the neighborhood for 20 years. He explained that his lot is about the same size as the Morgan property. He has a carriage house in the rear of his property and the only area he has for a patio is immediately adjacent to the Morgan property; the pool would only be 6-feet away from the patio – running the entire length of the patio. He said that if there were a hole in the fence, he could hold hands with the Morgans.

He said that the Morgans have a large family and he is concerned that he would easily be able to overhear any conversations that took place in the vicinity of the pool. He said he was also concerned that the pool would be constructed so close to a retaining wall that runs along the property boundary. He said that there are drainage issues in the area as well, and wondered if the construction of the pool would exacerbate those issues.

Mr. Rodek said that the project would have a significant effect on his quality of life, impacting both his privacy and the peace and quiet of his property. He asked if the Morgans were planning on renting out their property, which could make the situation even worse. He noted that at the end of his letter he had suggested six conditions that he hoped the board would consider if they decide to allow the pool.

Abutters Morgan Muir and Andrew Muir, who abut the Morgan property in the rear, were also concerned about noise and asked about the type of equipment that was proposed and how it would be soundproofed. They were concerned about the louvers on the pool shed. Andrew Muir said the equipment shed was only 17-feet from his bedroom window. He also commented that there is something about the existing house that causes it to act like a band shell – amplifying conversations.

Kathryn Muir, another abutter, objected to the fact that the pool was right up against a neighbor's property and asked why they didn't put it in the middle of the lot. She said the pool shed is quite large for an equipment shed and wondered what would stop it from becoming another bedroom. She was also concerned about water consumption.

Mr. Silva said that it is possible that the pool could be relocated to the other side of the lot and that the pool shed could also be adjusted. Rotating the shed 90 degrees was also an option. He said that the louvers on the pool shed could be removed and that there is no intention of converting the shed into a bedroom.

Mr. Tomassian then closed the public portion of the hearing for discussion by the board.

Ms. Whipple said she did not think it was a good plan. She was concerned about the proximity to the retaining wall and the negative effect on three sets of neighbors.

Mr. Tomassian set he thought that at a little over 8000 sq. ft. the lot was just too small for this kind of development.

Ms. Dolby agreed, and said she would not be able to vote in favor of this plan. Ms. Grant concurred, saying that it would have a negative effect on the neighbors.

Mr. Magnuson said that he didn't necessarily think the lot was too small, and noted that the board had recently approved a pool on Green Avenue on a similarly sized lot. In that case though, the pool was located in the middle of the lot and the proposal had the support of several abutters.

Mr. Magnuson made a motion to deny the special permit saying he did not believe the proposal was in harmony with the general purpose and intent of the bylaw. He said he believed the project would have a negative effect on the privacy and peacefulness of the neighborhood. He noted that the board was not sure whether or not the property would be rented, which – although it was not a zoning concern – could have a profound effect on the abutters.

Ms. Grant seconded the motion and voted to deny the special permit request for the same reasons.

Mr. Tomassian, Ms. Dolby, and Ms. Whipple also voted to deny the application for the same reasons. Motion carries: 5 – 0.

Respectfully submitted,

Lisa C. Morrison, Assistant