

Case No. 8-21
Date Filed: 9 February 2021

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 Jean M. Walshe for a special permit under section 10.1 G of the bylaw to construct a swimming pool and pool cabana on a preexisting, nonconforming lot at 14 Shurtleff's Way (Assr. Pcl. 20B-22.1) in the R-20 Residential District.

1. On 9 February 2021 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 12 February and 19 February 2021.
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, 3 March 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.

In addition to the applicant, architect William Sullivan, landscape contractor Fred Fournier, and engineer Reid Silva were also present.

Reid Silva of VLS began the presentation, noting that the application is similar to one filed a few months back and withdrawn for redesign. Mr. Silva said that the applicant listened to the concerns of her neighbors and the board and made some improvements to the design in an effort to address those concerns: the pool has been made smaller and pulled in closer to the house, the cabana was also made smaller and reoriented on the lot, and the pool equipment will be fully enclosed in the basement of the pool cabana.

Mr. Silva showed an aerial photo of the neighborhood, highlighting with green dots those neighbors who were in favor of the project. He said that Ms. Walshe reached out to the entire neighborhood

and many of her neighbors wrote back with letters of support, including three out of four of the direct abutters.

Mr. Silva then went into detail regarding the modifications to the original application: pool reduced in size from 16 x 34 to 16 x 32, pool cabana from 14 x 18 to 14 x 16. The patio and seating area have been moved entirely next to the cabana - further away from the Starke residence - and the second seating area has been removed. In addition to the dense plantings of arborvitae along the sides and rear of the property, they are planning on installing a sound-attenuating fence to mitigate noise and enhance privacy. Mr. Silva said that with the pool equipment fully enclosed in the basement, there will be no mechanical noise. He said that the pool was moved as close to the house as possible, while still preserving the existing planting beds.

Mr. Sullivan addressed the changes to the pool cabana. He said it is a minimal structure that contains a half-bath - so people will not have to trek through the house to use the bathroom - a small bar sink and undercounted fridge, and an open area for seating and storage. The washer and dryer have been removed and the footprint and ridge height reduced.

Mr. Silva noted that if the line dividing the R-5 district from the R-20 district were just one street over, this would be a conforming lot.

Fred Fournier showed some photos of the extensive plantings along the side and rear of the property. He said the planting beds are between 8 and 10 feet deep and consist of a line of 8-foot high arborvitae, rhododendrons, and a border of bedding plants.

Jean Walshe commented that there was no exterior lighting proposed, other than that required by the building code.

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

Seven letters of support, which were included with the application materials and distributed to all the members, were received from: Annie Bryan of 26 Shurtleff's Way, Kenneth Dobular of 15 Silva Lane, William Taylor & Chloe Mantel of 38 Plantingfield Way, Lincoln & Selena Kinnicutt of 20 Shurtleff's Way, Peter Walshe of 10 & 11 Shurleff's Way, and Gordon Tyra of 9 Shurtleff's Way. All were enthusiastic in their support of the project and commented that Ms. Walshe was an ideal neighbor who respected her neighbors and was a fine steward of her property. Many had been Ms. Walshe's neighbor for decades.

Five letters of objection were received from: Allison Doriss of Silva Lane; Alexis, Lauren & June Starke - all of 9 Silva Lane, Jenny Young of 16 & 18 Silva Lane, and Cathy Coe of 5 Silva Lane. All were concerned that the size of the lot was too small to accommodate the pool and cabana, and were worried about noise, lights, sustainability, and the proximity of the pool to the small lots on Silva Lane that back up to Ms. Walshe's property.

Ms. Dolby asked how many of these letters were from notified abutters. The assistant replied that three of the letters were from the Starke property, and one was from a neighbor, but not a notified abutter.

Mr. Tomassian then asked for comment from those in favor of the project. Pat Tyra, of 15 Shurleff's Way, said that she lives kitty corner to the Walshe property and has known Jean for twenty years. She said that there are five pools in her neighborhood and she has never

even heard a splash. She commented that tennis courts are another matter. She said she was in full support of the project.

Kim Kane said that she is not an abutter, but is a life-long islander who has spent a good deal of time at the Walshe property. She said that Jean values her privacy, and takes great care of her property. She said she has worked hard to accommodate her neighbors' concerns and is very approachable. She said that Ms. Walshe will not be in the pool at night screaming and yelling.

Lincoln & Sally Kinnicutt of 20 Shurtleff's Way said they was very much in favor of the project. He said he has never heard a single sound in 16 years from any of the pools in his neighborhood. He said that Ms. Walshe is a terrific neighbor and should be supported.

Annie Bryan of 26 Shurtleff's Way said she was in full support of the proposal and Ms. Walshe.

Peter Walshe of 10 & 11 Shurtleff said that he believes Ms. Walshe has addressed her neighbors' concerns and is in full support of the project.

Bill Taylor of Plantingfield Way said that he is a close neighbor, but not a direct abutter. He said that he was impressed that Jean reached out to the neighborhood for their advice. He said that he believes Jean is a vital part of the neighborhood. He said the property is quiet and well tended. He said he is even more in favor now than he was before.

Ann Tyra of 9 Shurtleff's Way said that she too is in favor of the project and hopes the board approves the application.

Kristen Warriner said that she has known Jean for 20 or 30 years and that she is a gracious lady who maintains her property.

Ken Dobular of 15 Silva Lane said that he and Ms. Walshe share a backyard boundary. He said he has known Ms. Walshe for 20 years and is supportive of the project and of Ms. Walshe making the Vineyard her primary residence. He said Ms. Walshe is incredibly solicitous of her neighbors and he believes she has adequately addressed all their concerns.

Mr. Tomassian then asked if anyone wished to speak in opposition. Alexis Starke, of 9 Silva Lane, said that - in her opinion - the changes made to the plan are very minimal and will not change the negative impacts on her family. She noted that the aerial displayed by Mr. Silva showing the neighbors who were in approval of the project, were much further away from the pool. She said that it is her family that will be impacted and have their summers ruined. She said there is already so much noise from this property, from renters and parties. She said her family can hear every word spoken in the backyard. She said she does not think the project is good for the neighborhood or for the environment. Ms. Starke said she would like more information on the sound-attenuating fence as it calls to mind an industrial structure one might see on I-95

June Starke agreed, and said that she too believed the changes were minimal. She said she understands that Ms. Walshe is well liked in the neighborhood, but commented that there are no guarantees that Ms. Walshe would not sell her property to new owners who may not

be responsible. She said she is concerned that allowing the pool could set a precedent for the neighborhood.

Cathy Coe of 5 Silva Lane said that she is concerned about noise, light pollution, and the height of the fence. She commented that she does not have central air, and needs to have her windows open in the summer. She said she will not be able to escape noise from the pool. She asked whether Ms. Walshe's brother who owns two properties, would consider putting the pool on his property.

Mr. Sullivan said that sound-attenuating fences are available in a wide variety of shapes and materials. He said that they consist of two layers with sound absorbing material sandwiched between them. He said they are not remotely like the structures along I-95.

Ms. Walshe said again that she understands her neighbors' concerns. She said that she too is aware of noise from rental properties on Silva Lane, noting that her brother owns one of those properties that is often rented. She said she believes the Starkes may be mistaking her property for one of those. She noted that the Starke driveway backs up to her property, but the house itself backs up to the adjacent rental property, so there may be some confusion as to where the noise is coming from. Ms. Walshe noted that Coe property does not back up to hers at all. She said that she reached out several times to the Starke family to go over their concerns, but was never given the opportunity.

Ms. Walshe said that it appears that no one had really examined the revised plans, she said that in addition to making both the pool and the cabana smaller, the pool is now 31 feet from the Starke property, where before it was 21 feet. The shower is a little over 30 feet away from the Starke property, where before it was 15 feet away. She said that she tried very hard to come up with an acceptable plan. She said the project is very important to her and will have a large impact on her retirement.

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

Mr. Magnuson said that he believed Ms. Walshe listened to her neighbors and the board and made significant adjustments to the plan. He noted that while the Starkes are not happy, Mr. Dobular, who is just as close to the Walshe property, is in favor of the project.

Ms. Dolby said she agreed with Mr. Magnuson that Ms. Walshe addressed the neighbors' concerns by moving the pool and the cabana and installing the pool equipment in the basement of the cabana. She said she thought the additional fence was a good idea to augment the dense plantings. She said she believed that Ms. Coe and the Starkes could be hearing noise from different abutters. She said she did not believe that the project will have a negative effect on the neighborhood as a whole.

Ms. Grant agreed that the changes were substantial and took into account the concerns of the neighbors.

Ms. Whipple also agreed and said she believed that all involved with the application had done a great job of addressing the neighbors' concerns and said she was in favor of granting the special permit.

Mr. Magnuson made a motion to grant the special permit saying that he believed the new design provided adequate mitigation for the neighbors' concerns and noted that the majority of abutters were in favor of the proposal. He said he believes that the issues of noise, privacy, and light pollution have been adequately addressed and that there will be no negative impact to the overall neighborhood.

Ms. Dolby seconded the motion and voted to grant the special permit for the same reasons.

Ms. Whipple, Ms. Grant, and Mr. Tomassian also voted to grant the special permit for the same reasons. Motion carries: 5 - 0.

Respectfully submitted,

Lisa C. Morrison, Assistant