

Case No. 30-21
Date Filed: 9 June 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 Michael & Rebecca Hegarty for a variance to the front yard setback to allow the installation of a nonconforming window well to provide a second means of egress from the basement. The property is located at 55 North Summer Street (Assr. Pcl. 20D-220.1) in the B-I Business.

1. On 9 June 2021 the application, a true copy of which is 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 on 11 June and 18 June 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, 30 June 2021 at 4:45 p.m. the hearing was opened and held via Zoom. The following board members were in attendance: Martin Tomassian – Chairman, Carol Grant, Nancy Whipple, Julia Livingston – alternate, and Gerry Conover – alternate. Applicants Michael & Rebecca Hegarty were also present.

Mr. Hegarty explained that the property was part of the former Shiretown Inn. He said that he is asking for 7-inches of setback relief as the window well extends into the front setback by that amount. The window well is necessary to provide a second means of egress from the living space in the basement, as required by the fire code. Mr. Hegarty explained that the front property line is not where one would think it would be on this lot: the actual boundary is closer to the house than the existing fence and flower beds, which appear to be part of the property. This is true across the entire front of the property. Mr. Hegarty submitted photos of a window well that is similar to what he is planning to install. The well would be fully bricked with 58-inch double hung windows that will provide a minimum of 28-inches of egress space. The proposed well meets all building codes and will not impede the delivery of emergency services.

Mr. Tomassian asked if there were any letters from town boards or abutters. There were none. There was no one in the audience who wished to comment either for or against the proposal.

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

Ms. Livingston commented that even though the window well does not technically meet the required 10-foot setback, it appears to be meeting the setback because of the way the lot is laid out and the fact that the existing fence and flower beds, which are parallel to the sidewalk, appear to have been built in the road layout. She said that she did not think that such an unobtrusive 7-inch incursion into the setback in this particular case was significant to the interests protected by the bylaw.

Mr. Tomassian agreed.

Ms. Grant agreed that the proposal met the requirements necessary for granting the variance: (1) there are circumstance relating to the shape that affect this lot in particular; (2) not allowing the variance would involve substantial hardship as the applicants would be unable to use the basement for any type of living space; (3) the board may grant relief in this case without nullifying or substantially derogating from the intent of the bylaw; and (4) this relief may be granted without substantial detriment to the public good. Ms. Grant proposed the condition that the window well be constructed as it appears in the photograph submitted with the application.

Ms. Whipple seconded the motion and voted to grant the special permit for the same reasons and with the same condition. Mr. Conover, Ms. Livingston, and Mr. Tomassian also voted to approve the project by a roll-call vote. Unanimously approved: 5 – 0.

Respectfully submitted,

Lisa C. Morrison, Assistant