

Case No. 38-21  
Date Filed: 14 July 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 79PPW, LLC. – Claire & Dick O’Hare for a special permit under section 10.1 G of the zoning bylaw to construct a replacement dwelling, in-ground pool, pool equipment enclosure, and associated site work on a preexisting, nonconforming lot located at 55 Cottage Street (Assr. Pcl. 20B-86.1) in the R-5 Residential District.

1. On 14 July 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 16<sup>th</sup> July and 23<sup>rd</sup> July 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, 4 August 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, Pam Dolby, and Julia Livingston – alternate. Doug Hoehn of Schofield, Barhini & Hoehn was present for the applicants as were attorney Michele Casavant, architect Louise Brooks, Fred Fournier, and Chris Miller – contractor. The applicants were also in attendance.

Mr. Hoehn explained that the project involves removing the existing house and constructing a new dwelling substantially on top of the same footprint – only slightly larger. The lot is a preexisting nonconforming 8520 sq. ft. lot in a neighborhood where many of the lots are nonconforming. The applicants have worked with their neighbors and moved the structure slightly closer to Peases Point Way to ease the southern neighbor and have reduced the size of the pool at the request of the neighbors to the east.

The O’Hares have owned the house, which was built in 1978, since 2016.

Architect Louise Brooks noted that the project has received approval from the Historic District Commission. The overall height of the new structure will be 31.1 feet and it will meet all the required setbacks. The existing house is 27.4 feet high.

Fred Fournier, landscape contractor, confirmed that he met with the neighbors to discuss privacy and noise abatement. A six-foot high fence and a row of arborvitae will be installed along the property lines, as shown on the site plan.

The pool equipment will be fully enclosed in a sound-proofed shed.

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

As there was nothing to rebut, Mr. Tomassian closed the public portion of the hearing for discussion by the board.

Ms. Dolby said that she was concerned that the pool equipment was just a little more than 5-feet from the property line. She asked if the pool equipment could be relocated or placed in the basement. Fred Fournier said that having the pool equipment in the basement was usually not a good idea because of safety concerns. Mr. Fournier said that they had met with the neighbor to the west who was fine with the location provided the equipment was in a sound-proofed shed.

Ms. Brooks said that the neighbor's pool equipment was in the same area, which was one of the reasons the location was chosen. Mr. Fournier noted that there is a brick wall along that portion of the property boundary and a dense stand of arborvitae, providing three layers of sound mitigation.

Mr. Tomassian suggested that there is room on the property to tuck the equipment closer to the corner of the house. Ms. Brooks said that they talked through many possibilities before everyone agreed to the current plan.

Ms. Whipple pointed out that there was no opposition from any abutters, either in writing or from anyone present at the hearing. She noted that two reputable professionals indicated that the abutters had approved of the pool equipment location.

Ms. Grant asked about the size of the pool equipment shed. Ms. Brooks said it was 5.5-feet by 8.5-feet connected by a pergola to an identically sized shower and storage shed.

Ms. Livingston made a motion to grant the special permit saying that she found the proposal to be in harmony with the general purpose and intent of the bylaw. She said she believed the site was appropriate and that the project would not be detrimental to the neighborhood. She noted that there was no opposition to the project from abutters or town boards or from any abutters. She suggested that the two direct abutters provide the board with letters for the file stating that they reviewed the plans in advance of the hearing and have no objection to the placement of the pool equipment.

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

Ms. Grant and Ms. Dolby also voted to grant the special permit for the same reasons.

Mr. Tomassian voted to deny the special permit.

Special permit was granted by a vote of 4-1.

Respectfully submitted,

Lisa C. Morrison, Assistant