

Case No. 40-21
Date Filed: 27 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 by 27 Pinehurst LLC for a special permit under section 10.1 G of the zoning bylaw to demolish an existing residence and construct a new single-family dwelling on a preexisting, nonconforming lot located at 27 Pinehurst Road (Assr. Pcl. 20C-157.1) in the R-5 Residential District.

1. On 27 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 30 July and 6 August 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, 18 August 2021 at 4:15 p.m. the hearing was opened and held via Zoom. The following board members were in attendance: Martin Tomassian – Chairman, Carol Grant, Nancy Whipple, Pamela Dolby, and John Magnuson. Chairman Tomassian opened the meeting and read the necessary requirements for conducting remote meetings in compliance with both the Governor's order and the Open Meeting Law.

Attorney Rob Moriarty was present for the applicants, as was architect Hilary Grannis. Ms. Dolby made it known that she is related to Althea Morgan, an abutter and former owner of the property, who has written a letter of objection through her attorney, Candace Nichols. There were no objections to Ms. Dolby sitting on this hearing.

Mr. Moriarty said that the preexisting, nonconforming 6500 s.f. lot was purchased by his clients, the Griffins, in January from Mrs. Morgan. The existing 630 s.f. dwelling is dilapidated and does not conform to R-5 setbacks. The applicants are proposing to build a four-bedroom, two-story dwelling that will take up approximately 33% of the lot. The house was designed in such a way so that it will not overlook Mrs. Morgan's house, except from the east. Mr. Moriarty said that he believed the design was in harmony with the neighborhood, which is currently undergoing a lot of new construction.

Mr. Moriarty said that the property card indicates that the house was built in 1945 and title research showed nothing in the neighborhood prior to 1930. Mr. Moriarty commented that the house is not listed on the Massachusetts Historical Commission's Cultural Resource Information System (MACRIS) and therefore does not require referral to the Martha's Vineyard Commission as a DRI.

Chairman Tomassian asked if there were any letters from town boards or departments. There were none. A letter from attorney Candace Nichols was received this afternoon and circulated among the members and to the applicant's attorney.

Ms. Nichols said her client had a number of concerns regarding the size of the house, the placement of electric lines, the inadequacy of the plans, and the effect on Mrs. Morgan's walkway. Ms. Nichols requested that the board continue the hearing for more complete plans that include the total square footage of the proposed dwelling. She asked that the dwelling be staked on site, and that height measurements be provided. Ms. Nichols also requested that the board refer the project to the MVC as a DRI.

Mr. Moriarty commented that prior to closing, Mrs. Morgan would not allow a survey of her property and took the risk that a portion of her walkway would be on his clients' property. He said his clients have been very respectful of Mrs. Morgan and offered to sell her back the portion of their property that contained the walkway, but the offer fell on deaf ears. He said that his clients have gone out of their way to placate Mrs. Morgan. Mr. Moriarty reiterated that the proposal does not require review by the MVC and noted that the walkway issues are not part of the ZBA review process. He said that his clients will abide by the conditions of the signed agreement.

Ms. Dolby commented that Ms. Nichols should have submitted her letter earlier, as she raised a lot of concerns that the board has not had time to evaluate. She said that she would like to see a square footage comparison between what is currently on the lot and what is proposed.

Ms. Whipple and Mr. Tomassian agreed and suggested that the applicant go back to the drawing board.

After a brief discussion, the board voted unanimously to continue the hearing until 15 September 2021.

On 15 September 2021 the board reconvened via Zoom. The same board members were all present, as were Attorneys Moriarty and Nichols.

Mr. Moriarty said that his clients have reduced the size of the house to 2200 s.f. by taking a foot off each side. Lot coverage has been reduced from 33% to 30%. The maximum ridge height is 25'3". They also removed three dormers, reduced the size of the porch, and relocated the outside shower. Mr. Moriarty said that he believes the size of the proposed dwelling is compatible with the neighborhood and noted that 31 Pinehurst is a 4474 s.f. house with a ridge height of 28'5". 36-38 Pinehurst has a ridge height of 30'.

Mr. Moriarty said that his clients propose to build a 4-bedroom dwelling, which is what was advertised in Mrs. Morgan's listing. There was no mention in the listing of any historic home on the property. It was understood and advertised as a tear-down. Mr. Moriarty said that there is a signed agreement where Mrs. Morgan acknowledges and agrees that if her walkway is found to be on the Griffins' property, the Griffins will pay to have it relocated. Mr. Moriarty said that the Griffins did not wish to give Mrs. Morgan an easement, as the ir property is already undersized.

Mr. Moriarty said that he believes that all the board's concerns voiced at the previous meeting have been addressed. He said that the Griffins need to keep this project economically viable and intend to build a four-bedroom home as advertised in the listing. He said that he believes the 2200 s.f., story-and-a-half dwelling will be an asset to the neighborhood.

Mr. Tomassian asked if there were any additional letters. Letter of support were received from the following abutters; William & Elizabeth Sherry of 15 Pinehurst, Andrew Mansfield of 18 Pinehurst, Claire Barthelemy & Marcos Proti of 50 Pinehurst, Michael Kaspar of 31 Pinehurst, Richard & Clare O'Hare of 36-38 Pinehurst, and Mark & Bridget Towey of 7 Pinehurst. All were in favor of the proposed project and thought it would be an improvement to the neighborhood.

A letter of opposition from Grace Sullivan of 49 Pinehurst, who was also in attendance, was read. Ms. Sullivan was concerned that the character of the neighborhood is changing and said she thought the proposed dwelling was too large for the lot. She was also concerned with the possible increase in traffic, the environmental impact of larger houses on the town's infrastructure, the transformation of the neighborhood, and the disappearance of affordable housing.

Candace Nichols, attorney for Mrs. Morgan, read from her letter dated 15 September 2021. Ms. Nichols reiterated her earlier points about the walkway, and said that the applicants had not shown their proposed plans to Mrs. Morgan. She said that the applicants had told her that they intended to leave the cottage as is for two or three years. She took issue with Mr. Moriarty's characterization that the house was in a dilapidated condition saying that her client has always kept the cottage in a livable condition as she rents it out for income. She recently replaced the roof.

Ms. Nichols said that the applicants had reduced the square footage by just 109 s.f. and the lot coverage by just 3%. She said the house is still too large for the lot. Ms. Nichols also requested that the board impose a number of conditions should they grant the special permit, as listed in the last paragraph of her letter.

Mr. Moriarty said that he was reading from a house inspection report from December of 2020, which lists a number of serious conditions, including rotting framing, leaks, and an infestation of skunks in the crawl space. Mr. Moriarty said that his clients never offered to share any plans with Mrs. Morgan. He reiterated that his clients were willing to move Ms. Morgan's walkway at no expense. He said that Mrs. Morgan did not want to delay the closing and signed the agreement and took his clients check for \$690,000.

Mr. Moriarty said the size of the proposed house is in line with the direction that the neighborhood is moving.

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

Mr. Magnuson said that he looked at the listing sheet from Wallace & Co., which clearly states that the property is on town sewer and town water and can support a four-bedroom house. He said that 2200 s.f. is not an especially large house and that it would not be out of place in that neighborhood. He said you can't really build a four-bedroom house in less than 2200 s.f. unless you have very small bedrooms. He said he has no problem with the project.

Ms. Dolby agreed and said that the listing clearly advertised the parcel as a four-bedroom property. She said it is true that the neighborhood is changing, but noted that a few years back, Mrs. Morgan would not have been able to get \$690,000.

Ms. Whipple said she believes the applicants have done a good job and that it will be an improvement.

Mr. Magnuson made a motion to grant the special permit saying that he believes the project is in harmony with the general purpose and intent of the bylaw. He said that he did not believe that a 2200 s.f. structure was too large for the lot or inappropriate for the neighborhood. He noted that the majority of abutters had written in support of the project. He said that like a lot of the neighborhoods in Edgartown, the Pinehurst area is changing: the property values are increasing and Mrs. Morgan has benefitted from that change.

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

Ms. Dolby, Ms. Grant, and Mr. Tomassian also voted, by roll-call vote, to approve the project for the same reasons. Motion carried: 5 – 0.

Respectfully submitted,

Lisa C. Morrison, Assistant