

Case No. 21-22

Application filed: 2 August 2022

## 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 James & Nadia Bunn for a special permit under section 10.1 G of the zoning bylaw to convert a preexisting, nonconforming one-story, one-car garage with a detached bedroom into a two-story, two-bedroom guest house above a new two-car garage on a preexisting, nonconforming lot located at 1 North Street (Assr. Pcl. 29A-39) in the R-20 Residential District.

1. On 2 August 2022 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 5 August and 12 August 2022.
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, 24 August 2022, the hearing was opened and held via Zoom. The following board members were in attendance: Carol Grant – acting Chair, Nancy Whipple, Thomas Pierce, Robin Bray – alternate and Julia Livingston – alternate. Ms Grant opened the hearing and read the necessary requirements for conducting remote meetings in compliance with both the Governor's order and the Open Meeting Law.

Harry Garvey made the presentation for the applicants. The property is just over one-third of an acre, 15,549 s.f. and is a preexisting, nonconforming lot. His clients purchased the property about a year ago. They plan to eliminate one bedroom from the main house and construct a second-story on the existing nonconforming garage/detached bedroom. The addition will conform to all setbacks and height restrictions with the exception of an exterior stairway that will be located 6'6" from the rear setback, an impingement of approximately 3'4" into the setback. The existing nonconforming structure is approximately 5'9" from the rear setback, or an impingement of 4'3".

Mr. Garvey discussed a letter from abutters Matthew & Jean Walston that was circulated among the members and the applicant's representative prior to the meeting. Mr. Garvey

said that he was aware of the litigation pending between the Walstons and their neighbors, but said the fencing has nothing to do with the current application.

He said that he is at a loss to understand how the proposed addition would infringe on the Walstons' view as their house is nearly 180 feet away from the proposed addition. He said that he believes that because of the pending litigation, the Walstons are opposed to anything happening on the property.

Ms. Grant asked if there were any letters from other abutters or from town departments. There were not.

Mr. Walston said that he and his wife are opposed to the project. He asked the board to deny the special permit 'based on the facts that the existing structure does not conform to current setback and dimensional requirements.' In addition, Mr. Walston said that the proposed structure would infringe on their view, that the '[o]utdoor lighting on the two-story structure would create a nuisance to our property enjoyment,' and that there would be an increase in vehicle and pedestrian traffic as a result of the addition. Mr. Walston said that the applicants already have a very large house. He said that lights on the addition will shine above the fence line. He was also concerned that the project would increase the level of noise in the neighborhood.

Mr. Garvey said that the house is not especially large, with just 2842 s.f. of living space. He said that the proposed addition will be just 10 to 12 feet higher than the existing one-story structure.

Ms. Grant then closed the hearing for discussion by the board.

Ms. Livingston said that Mr. Walston's interpretation of the bylaw is incorrect and noted that 90% of what the board does is deal with nonconforming structures and nonconforming lots. Section 10.1 G states that '[t]he Special Permit Granting Authority may after a public hearing, grant a Special Permit to allow a preexisting nonconforming use or structure to be expanded if where, in the opinion of the Board, such expansion will not be more objectionable to, or detrimental to, the character of the neighborhood than the original preexisting nonconforming use or structure.' Ms. Livingston said that the addition conforms to setbacks with the exception of the exterior stairway, which is less nonconforming than the original structure. She noted that there is a similar two-story garage across the street and others in the neighborhood as well. She said she did not think that the additional 10 to 12 feet would have a negative impact on the neighborhood.

Mr. Pierce said he wasn't sure which view the Walstons were referring to. He said that he estimated that the addition would bring the height of the proposed structure up to about 17', which would definitely not be taller than the main house.

Ms. Livingston noted that unless there is a view easement, the abutters have no legal right to a view across someone else's property.

Ms. Whipple noted that the property is in a fairly dense area, and said she thinks that it is better that the applicants chose to go up instead of out. She said she did not think that the proposal was out of character with the neighborhood.

Ms. Bray noted that the lot is among the larger in the immediate neighborhood. She said she did not think that the proposed addition would overburden the lot and noted that it was consistent with other structures in the neighborhood.

Ms. Livingston made a motion to grant the special permit saying that she believed the proposal to be in harmony with the general purpose of the bylaw. She said she did not believe that the addition would be detrimental to the neighborhood and that it was consistent with other buildings in the neighborhood.

Ms. Whipple seconded the motion and voted grant the special permit for the same reasons. Mr. Pierce, Ms. Bray, and Ms. Grant also voted to grant the special permit for the same reasons.

Motion approved: 5 – 0.

Respectfully submitted,

Lisa C. Morrison, Assistant