

Case No. 31-22

Application filed: 27 September 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 Robert W. & Sara W. Spalding for a special permit under section 10.1 G of the zoning bylaw to (a) construct additions to the main house, (b) install a swimming pool and (c) relocate an existing shed to be used as a pool house. The property is located on a preexisting, nonconforming lot at 32 Clevelandtown Road (Assr. Pcl. 29A-73) in the R-20 Residential District.

1. On 27 September 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 30 September and 7 October 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, 19 October 2022, the hearing was opened and held via Zoom. The following board members were in attendance: Martin Tomassian – Chair, Nancy Whipple, Thomas Pierce, Carol Grant, and Pam Dolby. 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.

George Sourati of Sourati Engineering was present for the applicants, Sara & Robert Spalding, who were also in attendance. The designer Travis Ritchie was also present. Mr. Sourati noted that the property is just 2600 s.f. shy of being a conforming ½-acre lot. The existing house meets all the R-20 setbacks, as will the proposed additions. The proposed additions include a 700 s.f. two-story expansion on the east side of the house, a new screened porch, and a new outside shower and dressing room. The applicant is also proposing to relocate an existing shed to be used as a pool house. The pool equipment will be located in the basement of the shed. Additional screening will be planted along the eastern property boundary.

Mr. Sourati said that the Spaldings intend to retire here, and are hoping to add some more living space to the home and enlarge the bedrooms. The number of bedrooms will remain at four.

The proposed pool is 20-feet by 35-feet and located adjacent to the new screened porch. Mr. Sourati said that the pool is 37-feet from the eastern property boundary and 27-feet from the southern property boundary. The pool will be fully fenced along the eastern side by a 6-foot cedar fence. Plantings will be added for additional screening.

A new septic system is also planned for the property.

Ms. Grant commented that the letters indicate that two abutters have concerns with the project and said that the applicants had not reviewed the plans with them.

Mr. Sourati said that the Spaldings tried to reach out to their neighbors, and were able to meet with some – not all – of them. Mr. Sourati said that they do not wish to withdraw the application at this time.

Mr. Tomassian asked if there was anyone present who wished to speak in favor of the proposal.

George Pimentel of 37 Clevelandtown Road, who lives directly across the street from the Spaldings, said he was in favor of the proposal and said that the Spaldings were wonderful neighbors. He said he wished other owners kept their properties up as well as the Spaldings did.

Melissa Thomas, landscape designer for the property, also spoke in favor of the proposal. She said that the Spaldings have owned the property for over three years and that they have no intention of renting the property. She said that some of the existing trees on the property will be removed for construction, but they will be replanted with evergreens.

A letter of support from Troy & Donna Lowell-Bettencourt was read. The Lowell-Bettencourts own 4 Evelyn Way and are abutters to an abutter.

Mr. Tomassian asked if anyone opposed to the project wished to speak.

Julia Tarka, a direct abutter to the east, said that the Spaldings did not try to contact her regarding this application. She said that they reached out in August of 2021, but then withdrew the application. Ms. Tarka outlined some of the concerns that she mentioned in her letter, which was previously circulated among the members and the applicants' agent. Ms. Tarka said that she believes that the pool and pool house are not appropriate on a nonconforming lot. She said she is concerned about allowing maximum development on seasonal lots at the detriment of the year-round population.

Ms. Tarka said that the Clevelandtown neighborhood includes many year-round families, several with small children. She said she is concerned that so many houses in year-round neighborhoods are turning into seasonal and short-term rentals. She said that if this property is used as a rental, noise from the pool will only add to the other annoyances that come with living next to a rental.

Ms. Tarka noted that all the proposed development takes place close to her property line. If the board decides to grant the permit, she asked that the board consider asking the applicants to relocate the pool closer to the center of the property. The proposed pool house is just 11-feet from her property line.

Ms. Tarka also noted that the Spalding property is graded and built in such a way that storm water drains onto her property. Increased hardscape will only exacerbate the problem. Ms. Tarka asked the board to require a drainage plan to remedy the problem.

A letter from James Hagerty, who owns 9 Bettencourt Way and is a direct abutter to the rear of the property, was read. Mr. Hagerty asked that the proposal be withdrawn in order to give the abutters a chance to review the plans with the applicants.

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

Mr. Sourati said that he understands the abutters concerns. He said that the Spaldings have asked him to design a storm water system to ensure that all storm water remains on the Spalding property.

Mr. Sourati said that the Spaldings have never rented their property and have no plans to do so. He said they are willing to put in writing that they will not rent the property for a term of 20 years.

Mr. Sourati said that the pool was sited to be visible from the public rooms of the house for safety reasons. He said he could shift the pool 20 feet or so to the west, but he's not sure what that would accomplish. Mr. Sourati said that the Spaldings were willing to meet with their neighbors and try to improve the plan.

Ms. Grant said that she was concerned that the neighbors have not had enough of a chance to review the plans. She said she is not comfortable with so many unknowns. She would like to see a fully vetted final plan, as well as a drainage plan.

Mr. Pierce said that the board has approved plans that had a significantly higher density. He said that he understands the abutters' concerns, but noted that the owners said they had no intention of renting the property.

Ms. Dolby asked if the applicants would consider swapping the location of the pool with the proposed septic system in order to accommodate the abutters. She suggested that the hearing be continued to give the applicants and the abutters a chance to explore possible changes to the plan.

Ms. Whipple said that she would also like to see a drainage plan.

Mr. Tomassian allowed Ms. Spalding to interject a few comments. She reiterated that the pool had been located to provide a line of sight from the public portion of the house for safety reasons. She said that if they were to shift the pool to the left, the pool would be in front of the garage with no direct line of sight from the house. Ms. Spalding said that it is unclear how much storm water comes from their property, as opposed to from the road.

She said that she believes the Highway Department is exploring larger drainage issues in the area.

Ms. Dolby made a motion to continue the hearing for two weeks – until November 2nd to give the abutters a chance to comment on the plans, and for Mr. Sourati to design a drainage plan.

Mr. Pierce seconded the motion.

Ms. Grant, Ms. Whipple, and Mr. Tomassian also voted, by roll-call vote, to continue the hearing to 2 November at 4:00 p.m.

After several postponements, the board reconvened on Wednesday, 7 December 2022 to continue the hearing. George Sourati of Sourati Engineering and Travis Ritchie of R+D Studio were present for the applicants, Sara & Rob Spalding, who were also in attendance.

Mr. Sourati said that since the prior hearing they have attempted to address the three issues raised by the abutter: the location of the pool, drainage, and tree removal. A new drainage plan was submitted, which adds four drywells, gutters and downspouts, and three trenches along the common property line to catch any run-off before it reaches the Tarka property. Mr. Sourati also presented a video of Clevelandtown Road during a rain storm, which showed run-off from the road going onto the Tarka property, not from the Spalding property. Regardless, Mr. Sourati said, the Spaldings went the extra mile to ensure that no run-off from their property will go onto the Tarka property.

Mr. Sourati said that they have revised the landscape plan in order to save more of the 20-year-old trees on the property. Initially they were planning to remove 20 trees, now they will need to remove just 3. None of the trees along the common property boundary will be removed and a fence is planned as well.

Mr. Sourati noted said that they have reduced the size of the pool by 19% and though they did relocate it by a few feet, the Spaldings did not want to shift it too far away from the living spaces for safety reasons. The pool house was also shifted about four feet closer to the center of the lot. Mr. Sourati noted that the Tarka house is 132-feet from the pool. He said he did not think that shifting it another 10 or 15 feet away from the Tarka property would make much of a difference. He said that the Spaldings want to be able to keep an eye on their grandchildren when they are in the pool; shifting the pool to the west side of the lot would put the pool adjacent to bedrooms, not public spaces. Mr. Sourati commented that the pool will not be visible to adjacent properties.

As far as noise from the pool is concerned, Mr. Sourati said that people make noise, not pools. He said he believed that moving the pool house closer to the pool will help to mitigate noise. He also noted that the pool equipment will be fully enclosed within the basement of the pool house.

Mr. Sourati concluded his presentation by showing a map of existing pools on nonconforming lots in the area, of which there are many.

Mr. Tomassian then asked if there were any letters from town boards or departments. There were not. He asked if there were any letters from abutters. Letters in favor of the Spaldings proposal were submitted by the following abutters: Troy & Donna Lowell-Bettencourt of 4 Evelyn Way, Kenneth Bussman of 6 Evelyn Way, Karen Volo of 10 Bettencourt Way, and George Pimental of 37 Clevelandtown Road.

Julia Tarka of 24 Clevelandtown Road was not in favor of the project. Ms. Tarka, who was present, said that while she thoroughly appreciates all the changes that the Spaldings have undertaken since the first hearing, she does not believe that pools are appropriate on nonconforming lots.

Sara Spalding thanked the board for the opportunity to present the proposal and thanked the board for their time and consideration.

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

Mr. Pierce said he thought the applicants had done a good job of addressing the neighbor's concerns. He said that he believes the majority of the flooding is coming from Clevelandtown Road, not from the Spalding property. He said he thought the Spaldings argument for wanting to site the pool adjacent to interior living spaces for safety reasons was valid.

Ms. Grant noted that permits for pools on nonconforming lots are granted by the board on a case by case basis, depending on the individual merits of each application.

Ms. Dolby said that she would be happier with the project if the pool had been moved more to the west than just a couple of feet. She said she wasn't convinced by the applicants' arguments.

Ms. Whipple said she understands Ms. Dolby's concerns, but believes that moving the pool house closer to the pool will help with noise mitigation. She said she believes that the Spaldings have gone out of their way to address the neighbor's concerns. She said she is in favor of the revised proposal.

Mr. Pierce made a motion to approve the project as presented, saying that he believes it complies with the general purpose and intent of the bylaw. He said that he found the project to be in keeping with the neighborhood, noting that there were several pools in the neighborhood on nonconforming lots. He said he believed the property will not be overburdened by the pool or the minor additions to the main house.

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

Ms. Dolby opposed the proposal.

Motion granted 4-1.

Respectfully submitted,

Lisa C. Morrison
Assistant