

Case No. 39-22

Application filed: 29 December 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 relating to the request by Michael Binder for a special permit under section 10.1 G of the zoning bylaw to install an in-ground pool on a preexisting, nonconforming lot located at 18 Pilgrim Road (Assr. Pcl. 11B-1.21) in the R-20 Residential District.

1. On 29 December 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 the 30<sup>th</sup> of December 2022 and the 6<sup>th</sup> of January 2023.
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 January 2023, 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.

Reid Silva of Vineyard Land Surveying was present for the applicant, who was also in attendance. Caleb Nicholson of Contemporary Landscapes was also present. Mr. Silva said that this property was purchased by Mr. Binder in March of 2022 from Ed Cottle III. It is an 11,220 s.f. lot in the R-20 Residential Zone. The applicant would like to install an in-ground 14 x 28 pool. The pool equipment will be located on a 4 x 8 concrete pad and enclosed by a sound-proofed fence.

Mr. Nicholson said that the entire property will be enclosed by pool-compliant fencing. Because of drainage problems in the area, some fairly large dry wells were installed on the property as part of an overall drainage plan. There are currently retaining walls on the south side of the property, which will be continued on a portion of the western side, adjacent to the proposed pool.

Mr. Nicholson said that because of the location of the septic system, the pool equipment will be located approximately 8-feet from the western property line. He said it is really the only practical place for it to go. The neighbor's house on the adjacent lot is located over 100-feet away from the pool equipment.

Mr. Tomassian asked if there were any letters from town boards or departments. There were none. There were no letters from abutters or from members of the public.

There was no one in the audience who wished to comment on the application, either pro or con. Mr. Tomassian then closed the public portion of the hearing for discussion by the board.

Mr. Tomassian said he was not in favor of a pool in this area. He noted that the lot is just a quarter of an acre. He also commented that there are no other pools in the area, as far as he could tell, and doesn't think that pools are appropriate in this area.

Ms. Grant said that she was confused by the fact that the address listed in the notice is 18 Pilgrim Road, when the property abuts 10<sup>th</sup> Street, not Pilgrim Road.

Mr. Silva responded that 18 Pilgrim Road is the legal address of the property, as given by the town. He said that the property at one time was connected to Pilgrim Road. It is likely that the assessor will change the address to 10<sup>th</sup> Street in the near future. He said there was no flaw in the notice.

Ms. Dolby said that the pool equipment needs to be fully enclosed in a sound-proofed structure, not just surrounded by a sound-proofed fence.

Mr. Nicholson said that this was not a problem, and in response to a question from Ms. Grant, produced a photograph of a typical pool equipment shed that they have used in the past. He noted that the location will be on the same concrete pad as shown on the site plan and it will be lower than the fence in height. Mr. Nicholson then showed some photographs of the property, illustrating that the entire backyard is screened and fenced in. The pool will not be visible from the street or adjacent properties.

Ms. Dolby said that she has no problem with the pool. Mr. Pierce agreed and noted that the board had approved pools on much smaller lots in the past.

Mr. Pierce made a motion to approve the project as presented. He said that he believed it will be an improvement to the neighborhood and noted that there were no objections from town boards or from any abutters. He said he believed the project was in harmony with the general purpose and intent of the bylaw and will not overburden the lot. He proposed the following condition: pool equipment will be fully enclosed in a sound-proofed structure.

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

Ms. Dolby and Ms. Grant also voted to approve the project for the same reasons and with the same condition.

Mr. Tomassian voted not to grant the permit. Motion approved: 4 – 1.

Respectfully submitted,

Lisa C. Morrison, Assistant