

Case No. 42-22

Application filed: 5 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 Geoffrey Kontje & Norma Costain for a special permit under section 10.1 G of the zoning bylaw to construct a one-story 438 s.f. addition to a preexisting, nonconforming structure on a preexisting, nonconforming lot at 249 Chappaquiddick Road (Assr. Pcl. 31-29) in the R-120 Residential District.

1. On 17 January 2023 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 20th and the 27th 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, 8 February 2023, the hearing was opened and held via Zoom. The following board members were in attendance: Carol Grant – acting chair, Nancy Whipple, Thomas Pierce, Pam Dolby and Julia Livingston, alternate. Ms. Grant 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.

Mr. Kontje began the presentation by showing the board an aerial photograph of his property, illustrating that it is surrounded by wetlands on three sides. He has no near neighbors. It appears that Mr. Kontje's nearest neighbor is approximately 600 feet away on the other side of Chappy Road. Mr. Kontje said that his house dates from the 1860s, possibly even earlier. It was build for a Chappaquiddick Wampanoag and, as was custom in those days, very close to the road. The proposed addition will be located at the rear of the existing house and as far away from the wetlands as possible. The addition will consist of a small connector and a bedroom and bath.

Mr. Kontje noted that the intent of the addition is to allow him and his wife to 'age in place.' He has lived in the house for forty-four years. He said that the proposed location is really the only possible one – he has relocated his shop and will need to reconfigure the septic

system. The existing house is approximately 11-feet from the side setback: the addition will be 5-feet closer.

The property immediately adjacent to the addition is a portion of Pimpneymouse Farm. Mr. Kontje noted that in Edo Potter's time it was referred to as 'the borrow pit' – an area where soil was excavated. It is lower than the surrounding land and, because it is bordered by wetlands, it is considered unbuildable.

Mr. Kontje said that he does not believe the addition will have any effect on his neighbors, it will be invisible from the public way and, as noted, it will abut a likely unbuildable section of Pimpneymouse Farm. Mr. Kontje said that he has reached out to his neighbors who wrote in support of the project.

Ms. Grant asked if there were any letters from town boards or departments. There were not. Letters of support were received from abutters Ted & Constance Roosevelt of 1 Willet Lane, and from Diana Slater, Sam Slater, and Harriet Potter all of Pimpneymouse Farm. There was no one in the audience who wished to comment on the application, either for or against.

Ms. Livingston said she did not think the board could approve a project that made further intrusions into the setback than the existing nonconforming structure. She said she thought it could create a dangerous precedent.

The assistant read the text of section 10.1 G 6 which states that the board may grant a special permit to allow the extension of a preexisting, nonconforming structure – after public hearing – if the board finds “that the proposed extension will not be more objectionable or substantially more detrimental to the character of the neighborhood than the original structure.” She also noted that the board does not set precedent *per se* as each application for a special permit is reviewed on an individual basis and no two sets of circumstances are identical.

Ms. Dolby said that she thinks that the request is reasonable and within the boards authority to grant. She noted that in this case, the structure is located next to unbuildable land and no new conformity is proposed.

Ms. Whipple agreed and noted that the lot is secluded from immediate neighbors and will likely not be objectionable to anyone.

Ms. Dolby made a motion to approve the project as presented. She said that she believed the proposal was in harmony with the general purpose and intent of the bylaw. She noted that there were no objections from town boards and that several abutters had written in support. She noted that even though the proposed addition is a few feet closer to the side back, she did not believe that it would have a detrimental effect on anyone, especially as the adjacent property is likely unbuildable.

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

Mr. Pierce, Ms. Grant, and Ms. Livingston also voted to grant the permit for the same for the same reasons.

Motion approved: 5 – 0.

Respectfully submitted,

Lisa C. Morrison, Assistant