

Case No. 1-23

Application filed: 17 January 2023

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 Portside Builders LLC for a special permit under section 10.1 G of the zoning bylaw to construct a garage with detached bedroom above on a preexisting, nonconforming lot at 9 Hollow Way (Assr. Pcl. 11-2.33) in the R-60 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.

Attorney Robert Moriarty was present for Portside Builders, as was Mr. Torcia. Mr. Moriarty said that the lot is currently vacant. Because it is a grandfathered preexisting, nonconforming lot according to the Zoning Inspector, a single-family residence may be built as-of-right. However that grandfathered protection covers only a single-family residence, not any accessory structures, which require a special permit.

The applicant would like to build a garage with detached bedroom above at the same time as the main house, hence the request for a special permit. Mr. Moriarty said that he believed the proposal was in line with other developments in the neighborhood, noting that several comparably sized lots in the neighborhood have been similarly developed. He cited the following examples: 10 Hollow Way a 1.1-acre lot has a house and guest house, 6 Hollow Way is a .93-acre lot with a house and guest house, 8 Smith Hollow Drive is 1.4-acres with a house and guest house, and 1 Farm Way is a 1.1-acre lot with a house and guest house. He said he believed this project was in line with others in the area.

Mr. Moriarty said that in the interest of transparency, there is the option - in five years - to connect the detached bedroom to the adjacent storage area and create a guest apartment above the garage. The current proposed floor plan shows a 400 s.f. detached bedroom and an adjacent, but unconnected, 195 s.f. storage area.

Ms. Grant asked if there were any letters from town boards or departments. There were none. There were no letters from abutters or members of the public. The assistant mentioned that one abutter, Igor Vukoje, of 13 Briarwood Drive, stopped by the office to say that he had no concerns. There was no one in the audience who wished to comment on the application, either for or against. Ms. Grant then closed the public portion of the hearing for discussion by the board.

Ms. Whipple asked if the intent is to sell the property, how can the board be sure that the new owner will not to build an entirely different house? She said she thinks that perhaps this is a case of the cart coming before the horse. Mr. Moriarty said that the plans before the board are what will be built: Portside now owns the property and will build the house and, hopefully, the garage and then offer it for sale. He also noted that there are no current plans to build the pool, which is captioned on the site plan as 'future pool.' The pool is not part of this application.

Ms. Grant said there seemed to be a lot of moving parts. She was concerned that the owner of the property is now Portside Builders, but on the application the owner was listed as Samuel P. Brady. Mr. Moriarty said that Mr. Brady bought the property in 1979 and sold it to Portside Builders. Ms. Grant said she thought this was enough of an irregularity to require a new notice and a new hearing.

Ms. Dolby disagreed. She said that Portside Builders was listed on the application and the notice as the applicant. She said it is doubtful that any abutter would be concerned about the ownership of the lot - they are more likely to be interested in the actual project. She said she did not think a new hearing was required.

Ms. Livingston had some questions about the future guest house and what would be required. It was noted that the 400 s.f. detached bedroom would be connected to the 195 s.f. storage area, making a 595 s.f. apartment - well within the 900 s.f. maximum for an apartment/guest house. The assistant noted that a new special permit will be required should the new owner decide, in five years, to have a guest house.

Both Ms. Whipple and Ms. Grant had some reservations about the project. Mr. Moriarty asked to withdraw. Ms. Grant said the process was too far along for a withdrawal. She said that if the board denied the project, the applicant could reapply if they made significant changes to the project, which address the reasons for the denial. There were some questions about possible reasons for the denial. Mr. Moriarty clarified that the only issue before the board is the garage and detached bedroom: the main house is allowed by right, and the detached bedroom conforms to the requirements of the bylaw.

Ms. Dolby said that she appreciates it that Mr. Moriarty was up front about the possibility that the detached bedroom would become an apartment in five years, if approved by the board.

Ms. Grant said she thought the project was too large for the lot. Ms. Livingston said that should the board decide to deny the application, they would need to be clear about the reasons. She said that she believes the project conforms to the bylaw and said that the applicant is not asking for permission for the apartment/guest house at this time.

Ms. Whipple said that the project made more sense to her now.

Ms. Livingston made a motion to approve the project as presented. She said she found the proposal to be in harmony with the general purpose and intent of the bylaw. She noted that there were no objections from town boards or departments, and that the project conformed to all setbacks and height restrictions. She also noted that several properties in the immediate neighborhood have been similarly developed with houses and accessory structures.

Ms. Whipple seconded the motion and voted to approve the project for the same reasons. Ms. Dolby, Mr. Pierce and Ms. Grant also voted to issue the special permit. Motion carries 5-0.

Respectfully submitted,

Lisa Morrison
Assistant