

Case # 18-23

Date Application Filed: 6 June 2023

DECISION AND FINDINGS OF THE ZONING BOARD OF APPEALS

Re: Request for a special permit under section 10.1 G 4 of the Edgartown Zoning Bylaw
Applicant/Owner: 93 North Water Street Nominee Trust, James F. Reynolds, Tr.
Assessor's Parcel: map 20D lot 281

PROCEDURAL HISTORY

1. Application was for a special permit under section 10.1 G 4 of the zoning bylaw to expand the living area of a preexisting, nonconforming guest house by converting the finished basement to living space. lot at 24 Katama Bay View Road in the R-60 Residential District.
2. A public hearing - after proper notice was given to abutters, town departments, and placed in the *Vineyard Gazette* – was held on Wednesday, 28 June 2023 via Zoom.
3. The application was accompanied by a site plan from Schofield, Barbini & Hoehn dated 24 April 2023 and by additional elevations and footprint by Grassi Design Group dated 23 February 2023.
4. The Board reviewed the application, the plans, and all other materials and information submitted prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing [See Record of Proceedings].

FACTS

1. The property consists of a conforming 11,500 s.f. lot in the R-5 residential neighborhood.
2. The lot contains two one-bedroom structures: a 2-bedroom 1334 s.f. main house and a 1-bedroom 900 s.f. guest house.
2. In 2010 the applicants applied for and received a special permit from the Zoning Board of Appeals to demolish the preexisting, nonconforming guest house.
3. The guest house was preexisting, nonconforming because under zoning guest houses are not allowed on lots under 15,000 s.f.
4. The Board granted the applicants permission to increase the footprint of the guest house to 900 s.f. – an increase to the footprint of 27 s.f.

5. In 2010, the Board also granted permission to increase the height of the new guest house by 14-feet.
6. The project received a letter of support from Paul & Alysa Stafford of 101 North Water Street.
7. The board also received an email from Reade Milne, Building & Zoning Inspector dated 21 June 2023. It was Ms. Milne's determination that the application should have been filed under section 2.3 B.9 – a guest house larger than 900 s.f.
8. Ms. Milne said that she would have rejected the application as the lot does not contain the acreage required for a guest house over 900 s.f.

FINDINGS:

The Board found that the proposal does not comply with the provisions of either 10.1 G or 2.3 B 9 and is not in harmony with the general purpose and intent of the bylaw for the following reasons:

1. Under current zoning a guest house is not allowed on a lot with an area of less than 15,000 s.f. In 2010 the applicant was allowed by a special permit to rebuild and expand to 900 s.f. a preexisting, nonconforming guest house. There is no precedent for the board to allow a guest house larger than 900 s.f. on a lot with an area of less than 15,000 s.f.
2. As a general rule, the Board only allows guest houses larger than 900 s.f. on lots with twice the necessary square footage required in the underlying zoning district and conditions them so that if the property is ever subdivided, the guest house becomes the main house on the newly created lot.
3. Allowing the applicant to expand a guest house beyond the 900 s.f. threshold would set a precedent: there are a plethora of guest houses on small lots in the R-5 residential district on both conforming and nonconforming lots. The Board found that allowing the living space of a guest house to be expanded on a lot without the necessary 15,000 s.f. a lot is contrary to both the purpose and intent of the bylaw.
4. The Board understands that the proposal is – on its face – quite minimal as the expansion would take place within the existing footprint and is unlikely to have a negative effect on the neighbors. However, the project would have a deleterious effect on the Board's ability to regulate the size of guest houses in a climate where the pressure to overdevelop lots in the R-5 Residential District is rampant.
5. The Board finds that although the basement area is labeled 'Media Room' it could, if allowed, easily be converted to a bedroom by future owners.

DECISION:

Based on the above findings and reasons, the Board voted 5-0 to deny the special permit.

This decision of the Board of Appeals and a record of proceedings are on file in the Zoning Board office and in the office of the Town Clerk, Town Hall under Case No: 18-2023.

Board of Appeals,

Lisa C. Morrison, Assistant

Note: This decision was filed in the office of the Town Clerk on 10 July 2023. Appeals, if any, should be made

pursuant to Section 17 of Chapter 40A of the Massachusetts General Laws and should be filed within 20 days of the filing of this decision in the office of the Town Clerk.

_____2023

I hereby certify that no appeal has been filed in the twenty-day period following the date of filing this decision.

Attest: _____