

Case No. 24-23
Application filed: 18 July 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 Stefan Lopata for a special permit under 10.1 G of the zoning bylaw to (1) rebuild an existing nonconforming entry deck and add a flat roof above and (2) rebuild and expand existing nonconforming rear first and second floor decks. The property is located on a preexisting, nonconforming lot at 88 The Boulevard (Assr. Pcl 11A-331) in R-20 Residential District.

1. On 18 July 2023 the hearing notice, 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 21st and 28th of July 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 and abutters to abutters 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, 9 August 2023, the hearing was opened and held via Zoom. The following board members were in attendance: Martin Tomassian – Chair, Nancy Whipple, Carol Grant, Thomas Pierce and Julia Livingston - alternate. 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.

Casey Decker PE of MV Engineering was present for the applicant. Mr. Decker explained that the applicant would like to rebuild the existing entry deck and install a flat roof over the deck. The footprint would be nearly identical to the existing nonconforming entry deck, only the stairs would be relocated to be in line with the existing stone steps. There will be no increase in the nonconformity.

The applicant is also asking to rebuild the existing rear decks – both top and bottom - squaring it with the side of the existing structure. The applicant is asking for an additional

19-inches of side setback relief, which would allow the decks to line up with the side of the house and make for a more pleasing façade.

Photos of the existing and proposed deck were presented. The additional 19-inches would make it possible for the applicant to put a table out on the deck.

Mr. Decker also submitted a photograph of the existing mature trees that screen the western boundary of the property, nearest to the decks.

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

The owner, Stefan Lopata, spoke in favor of the proposal, saying that he bought the property just before Covid. He said he has kids and grandkids and is just trying to spruce up the house..

There was no one else in the audience who wished to comment either for or against the proposal.

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

Mr. Pierce asked about the flood zone designation on the plan. Mr. Decker said that the edge of the flood zone is at elevation 9, which is on the other side of The Boulevard from this property. The closest corner of the house is at elevation 12, while the rear of the property is at elevation 14. The property is outside of the coastal district.

Ms. Livingston said she did not think that the board generally approved increasing a setback incursion. She said that this appeared to be an upside-down house with living space on the second floor. The proposed expanded second floor deck is off the kitchen and it is likely that there will be a grill and eating area on the deck, which – she said – has the potential to negatively impact the neighbor to the south. Ms. Livingston said that she did not see why the applicant could not rebuild the decks to the existing nonconforming setback.

The assistant pointed out that 10.1 G of the bylaw allows the board to grant the extension of a nonconforming structure if, after public hearing, the board concludes that it would not be more detrimental to the neighborhood than the original nonconformity.

Ms. Grant said that she didn't see a problem with allowing the 19-inch extension as it will bring the decks in line with the rest of the house. She said she does not see it as having a huge impact and noted that there were no objections from any abutters.

Mr. Pierce agreed and said that the additional 19-inches would make the deck a more usable size.

Ms. Whipple agreed and said that although she appreciated Ms. Livingston's comments, she did not see the 19-inch expansion as a huge issue. She said she thought the project would improve the overall look of the façade.

Ms. Grant 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 said she

found the increase to be minimal and did not believe it would be any more objectionable than the existing nonconforming decks.

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

Mr. Tomassian, Mr. Pierce, and Ms. Livingston also voted to approve the project for the same reasons. Unanimously approved 5 to 0.

Respectfully submitted,

Lisa C. Morrison, Assistant