

Case No. 38-23
Application filed: 3 October 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 Steven & Bernadette Sabra for a special permit under section 2.1 B 10 of the zoning bylaw to convert the second floor of a detached garage into a guest house, when the main dwelling has been in existence for less than five years. The property is located on a conforming 2-acre lot at 8 Milikin Way (Assr. Pcl. 36-342.1) in the R-60 Residential District.

1. On 3 October 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 6th and 13th of October 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, 25 October 2023, the hearing was opened and held via Zoom. The following board members were in attendance: Martin Tomassian – Chair, Pam Dolby, Thomas Pierce, Carol Grant and Robin Bray - alternate. Chairman Tomassian opened the hearing and read the necessary requirements for conducting remote meetings in compliance with both the Governor's order and the Open Meeting Law.

Attorney Tim Moriarty was present for the applicant. Steven Sabra was also in attendance. Mr. Moriarty began the presentation noting that the Sabras purchased the property in 2017 and constructed a 5-bedroom home in 2021. The two-bay garage is connected to the house by an open breezeway.

Mr. Moriarty said that the Sabras would like to finish off the second floor of the garage. The floor area of the second floor is 528 s.f. – too large for a detached bedroom. Mr. Moriarty explained that the Sabras have four adult daughters with families and they are hoping for some additional space to accommodate their extended family. It has been two years since the occupancy permit was issued for the main house.

Other than an additional stairway, no new construction is proposed. The property is currently served by a 6-bedroom septic system.

Mr. Moriarty noted that if the breezeway was conditioned space, the Sabras would be able to apply for an accessory apartment, rather than asking for a guest house within the five year period.

Mr. Moriarty said that the garage was screened from the adjacent property. He said he did not believe that the project would be detrimental to the neighborhood and would enhance the Sabras' time with their family.

Mr. Tomassian asked if there were any letters from town boards or departments. There were none. Letters from three abutters were read: Sara Bernstein of 10 Milikin Way, Brian & Josephine Keefe of 13 Massasoit Road, and Russ Etherington of 17 Down Harbor. All had reviewed the plans and were in full support of the project.

There were no letters objecting to the proposal and no one in the audience who wished to speak for or against the project.

As no rebuttal was necessary, Mr. Tomassian then closed the public portion of the hearing for discussion by the board.

Mr. Tomassian asked about the deed restriction with the board of health. Mr. Moriarty explained that there are currently five bedrooms in the main house. The current septic system is for six bedrooms. The Sabras told the Board of Health that they are hoping to put a one-bedroom apartment above the garage so the board of health asked for a deed restriction that would ensure that the finished basement media room would not be used as a bedroom.

Ms. Dolby gave a brief history of 2.1 B 10, which says that a special permit is needed for a guest house when the main house has been in existence for less than five years. She said that back in the late 70s and 80s, developers were buying up property and quickly putting up spec houses and guest houses and maxing out development. The bylaw was an attempt to slow these developments safeguard town resources. Ms. Dolby said that this is no longer as applicable as it was in the past. She said she thought the bylaw should be removed or reworked.

Ms. Dolby said she appreciated the applicants' honesty, noting that they could have put up a wall in the existing space above the garage, put in a 400 s.f. detached bedroom, and then taken down the wall. She also noted that the lot was two acres, quite a bit larger than many lots in the neighborhood. She commented that no new construction was involved in the proposal – the space was already there. She said that there were no complaints from any abutters and said she saw no reason to deny the project.

Ms. Grant agreed and said she had no problem with the proposal. Mr. Pierce said he would also vote to approve the proposal.

Mr. Tomassian said he was uncomfortable with the proposal.

Ms. Grant asked the assistant if she remembered any cases where the board allowed guest houses before the five year period had lapsed. The assistant said she did not recall any at the moment and noted that requests for guest houses larger than 900 s.f. were more common. She noted that both 2.1 B 10 and 2.1 B 9 are special permits not variances. She said that as a rule the board has allowed guest houses larger than 900 s.f. when the underlying lot is twice the required size of a conforming lot. She said that no similar rule of thumb has been formulated for guest houses when the main house has been in existence for less than five years.

Ms. Dolby made a motion to approve the project as presented. She said she did not believe that the proposal would have a negative impact on the neighborhood. She said that the lot had adequate area and septic capacity to accommodate the guest house. She also noted that no new construction would be required. She said she saw no reason for the applicants to wait an additional three years. She said that the applicants had said that the guest house would be for family use. She noted that the proposed guest house is quite close to the main house, so she doubted that the Sabras would be renting indiscriminately.

Ms. Grant and Mr. Pierce voted to grant the special permit for the same reasons.

Ms. Bray said that she agreed with Mr. Tomassian and said that she believed the board needed to follow the bylaw as written and, if the five-year restriction is no longer necessary, then the town needs to vote to change the restriction. Ms. Bray said she could not vote to grant the special permit.

Mr. Tomassian also voted to deny the special permit.

Motion denied 3 to 2.

Respectfully submitted,

Lisa C. Morrison, Assistant