

Case No. 38-23

Application filed: 3 October 2023

Remand Zoning Petition filed: 26 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 remand zoning petition submitted under the terms of the Joint Motion for an Order of Remand filed with the Land Court on 15 December 2023. The remand petition is requesting reconsideration of the denial issued by the board on 3 October 2023 for the conversion of the second floor of a detached garage to a guest house, when the main house has been in existence for less than five years (2.1 B 10 of the Zoning Bylaw). The petition was filed by Steven & Bernadette Sabra. 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 and is owned by the 8 Milikin Way Nominee Trust, Caroline R. Flanders, Trustee.

1. On 28 December 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 29<sup>th</sup> of December 2023 and on the 5<sup>th</sup> January 2024.
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, 17 January 2024, the hearing was opened and held via Zoom. The following board members were in attendance: Pam Dolby –Acting Chair, Thomas Pierce, Carol Grant and Robin Bray - alternate. Attorney Tim Moriarty was present for the applicants, Steven and Bernadette Sabra, who were also in attendance. Chairman Tomassian was unable to attend because of a personal emergency. The applicants and their representative were asked if they wished to proceed with a four-member board with the understanding that they would need a unanimous vote. After consulting with his clients, Mr. Moriarty agreed to go forward with a four-member board.

Ms. Dolby 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 began the presentation. He said his clients would like to convert the second floor of the existing garage into a guest house within five years of the construction of the main house, as conditionally permitted section 2.1 B 10 of the Zoning Bylaw, provided all the requirements of 2.1 A 6 are met.

Mr. Moriarty noted that the proposal meets all the requirements of 2.1.A 6 by an order of magnitude: the proposed guest house is 528 s.f.: smaller than the 900 s.f. allowed. The lot is 87,120 s.f: the minimum land area necessary for a guest house is 15,000 s.f. In addition the existing structures exceed all the required R-60 setback requirements. Mr. Moriarty noted that the only additional construction involved in the proposal is a set of exterior stairs. Mr. Moriarty also noted that the existing garage is connected to the main house by a breeze way. The lot is served by an eight-bedroom septic system. The main house has five-bedrooms, the proposal would add one additional bedroom, bringing the total to six.

Mr. Moriarty gave examples of six properties that were allowed guest houses by the Planning Board within the five-year period. Several of them were also over 900 s.f. [See page 13 of Mr. Moriarty's presentation materials in the file].

Mr. Moriarty said that the proposal also meets all the criteria outlined in section 10.2 A 1 for conditionally permitted uses. It will not adversely affect the neighborhood and there are similar accessory dwelling units in the area. The property also has adequate off-street parking. Moriarty also noted that the project has received support from a number of abutters.

Mr. Moriarty said that the Sabras are only two years away from being allowed a guest house by right. They are, however, anxious to provide their adult children and grandchildren with a comfortable space so the entire extended family can enjoy their time together.

Ms. Dolby asked if there were any letters from town boards or departments. There were none. Letters from several abutters were read: Sara Bernstein of 10 Milikin Way, Brian & Josephine Keefe of 13 Massasoit Road, Russ Etherington of 17 Down Harbor, Mary & Robert Sheppard of 22 Smiths Way, Charles Holzwarth of 10 Down Harbor, and Andrew Houlahan of 8 Bayside North. 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, Ms. Dolby then closed the public portion of the hearing for discussion by the board.

Ms. Grant complimented Mr. Moriarty on his thorough presentation. She said she had no concerns about the project, noting that nothing is being added other than an exterior stairway.

Mr. Pierce agreed, and noted that he has been in favor of the project all along. He said that he did not think that the guest house would have any effect on the neighborhood. He noted that because the guest house is so close to the main house, he doubted that it would be rented out indiscriminately.

Mr. Bray said that she has had time to reconsider her initial objection, noting that there was no new construction proposed and the project conformed to the requirements of the bylaw. She said she agreed with both Ms. Grant and Mr. Pierce that the project would not have a negative effect on the neighborhood.

Ms. Dolby said that, like Mr. Pierce and Ms. Grant, she had no objections to the project all along and believed that the bylaw allowed the board to waive the five-year requirement after determining that there was adequate land area to support the guest house and that the proposal would not have a negative effect on the neighborhood.

Ms. Bray made a motion to grant the special permit saying that she believed the project is in harmony with the general purpose and intent of the bylaw. She said she believed the project met all the necessary criteria and would not have any negative effect on the neighborhood or Edgartown as a whole. She noted that there was substantial abutter support for the proposal and no concerns from town boards or departments.

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

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

Motion carries 4-0.

Respectfully submitted,

Lisa C. Morrison, Assistant