

Case No.2-24
Date Filed: 8 January 2024

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 Michael Torcia d.b.a. Portside Builders for a special permit under section 10.1 G of the zoning bylaw to construct a 16 x 40 in-ground pool. The property is located on a preexisting, nonconforming one-acre lot at 9 Hollow Way (Assr. Pcl. 11-2.33) in the R-60 Residential District.

1. On 8 January 2024 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 12th and 19th 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 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, 31 January 2024 at 4:00 p.m. the hearing was opened and held via Zoom. The following board members were in attendance: Martin Tomassian - Chairman, Pam Dolby, Carol Grant, Thomas Pierce, and Nancy Whipple. 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.

Attorney Robert Moriarty was present for the applicant, who was also in attendance. Mr. Moriarty said that the project had been approved by the homeowner's association. He said he was aware that Marilyn & Thomas Hopkins and Melissa Wilton, all heirs to Richard Wilton's property at 9 Briarwood Drive, had expressed some concerns in a letter to the board.

The Wilton/Hopkins were concerned that the pool would make the property more desirable as a rental for large groups. They were also concerned that noise from the pool would have a negative impact on the neighborhood and deprive them of the quiet enjoyment of their property.

Mr. Moriarty said that the portion of the property closest to the Wilton lot is heavily wooded, and will remain so. The pool is located on the opposite side of the property from the Wilton home. The pool equipment is also located as far from the Wilton property as possible, in line with the house and adjacent to the Edgartown-Vineyard Haven Road and the bike path.

Mr. Tomassian asked if there were any letters from town boards or departments. There were none. There were no additional letters from abutters, and no one 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. Ms. Grant asked about the size and location of the pool equipment. Mr. Moriarty said that the proposed location of the equipment is adjacent to the northern property line.

Ms. Grant asked about the setbacks. Mr. Moriarty replied that the equipment shed would either be under-6 feet or vaulted so that it would not be considered a structure and need not conform to setbacks. Ms. Grant commented that it could also be located in the existing garage or in a separate shed attached to the existing garage.

Ms. Dolby said that the board has no control over whether a property is used as a rental. She said she believed that the pool location and landscaping would mitigate the negative effects cited by the Wilton family.

Mr. Tomassian asked if Mr. Torcia owns other houses in the neighborhood. Mr. Moriarty replied that he did not.

Ms. Dolby made a motion to grant the special permit, saying that she believed the project was in harmony with the general purpose and intent of the bylaw. She said she believed that the pool was located far enough away from the Wilton property so that it would not have a significant effect on their quality of life. She noted that pools are being installed with some regularity in just about every neighborhood in Edgartown. She proposed the following condition: Prior to receiving a building permit, the applicant is to submit for review and approval a plan showing the final location and dimensions of the pool equipment enclosure. Pool equipment will be fully enclosed in a sound-proofed structure.

Ms. Whipple seconded the motion and voted to approve the project for the same reasons and with the same condition.

Mr. Tomassian, Mr. Pierce, and Ms. Grant also voted to approve the project for the same reasons and with the same condition.

Unanimously approved by roll-call vote: 5 - 0.

Respectfully submitted,

Lisa C. Morrison, Assistant