

Case No.11-24
Date Filed: 4 March 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 pertaining to the request by Martin Lynn for a special permit under section 3.1D 3 of the zoning bylaw to replace a dilapidated 6-foot fence with a new 7-foot fence. The property is located on a preexisting, nonconforming 4262 s.f. lot at 49 North Summer Street (Assr. Pcl. 20D-219) in the B-I Business District.

1. On 4 March 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 8th and 15th of March 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, 27 March at 4:30 p.m. the hearing was opened and held via Zoom. The following board members were in attendance: Martin Tomassian - Chairman, Pam Dolby, Thomas Pierce, Nancy Whipple, and Julia Livingston, alternate.

Byron Lynn, the owner's son, made the presentation. The applicant, Martin Lynn, was also in attendance. Mr. Lynn explained that his family's property abuts the Nevin Square parking lot and dumpster. The existing fence is collapsing as a result of being hit by cars and dumpsters. The fence is currently 6-feet tall, including about a foot of lattice. Mr. Lynn said his family would like to build a solid 7-foot tall fence. He said he hoped the additional height would keep garbage from spilling over onto their property as well as providing some sound mitigation for the 5:30 a.m. trash pick-ups in the summer and privacy

Mr. Lynn said that the fence had been approved by the Historic District Commission. The board then examined the photographs provided by Mr. Lynn that showed overflowing trash on the Nevin Square side of the fence.

Mr. Tomassian asked if there were any letters from town boards or departments. There were none. There were no letters from abutters or other members of the public.

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

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

Ms. Dolby said she understands completely why Mr. Lynn needs a 7-foot fence and said she had no objection to the proposal.

Mr. Pierce said that he did not realize that 7-foot fences were permitted if they did not meet setbacks. The assistant said that section 3.1 D 3 of the bylaw allows for side and rear yard setbacks to be reduced from 5-feet to zero for "party wall or similar construction...." in the B-I Business District.

There were no additional comments or concerns from the board.

Ms. Dolby made a motion to grant the special permit saying she found the proposal to be in harmony with the general purpose and intent of the bylaw. She said she found the site appropriate and noted that the project had been approved by the Historic District Commission. She said she did not believe that the fence would have a negative impact and noted that it could not be seen from a public way. She also noted that there were no objections to the proposal from anyone.

Ms. Livingston seconded the motion and voted to approve the project for the same reasons.

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

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

Respectfully submitted,

Lisa C. Morrison, Assistant