

Zoning Board of Appeals  
Town of Oak Bluffs

Kris Chvatal, Chairman

Members:

Gail Barmakian

Jane Lofgren

Michael Underwood

George Warren

Associate Members:

Joseph Re

Peter Palches

NOTICE OF DECISION

May 28th, 2009

Re: Application of Kathleen Taylor, 29 Thompson Avenue, Oak Bluffs, Ma.  
Map 3, Lot 149

Applicant is seeking a **Special Permit** to rebuild a nonconforming deck and adding 10 feet to it.

A. Background

1. By application received March 23, 2009 from the Town Clerk's office, a hearing was requested from the applicant on the request before the Board of Appeals.

B. Summary of Meeting

2. On April 9<sup>th</sup> Zoning Board Chairman Kris Chvatal opened a duly posted public hearing. A quorum consisting of Kris Chvatal; George Warren; Gail Barmakian; Joe Re; and Jane Lofgren were present. Joyce Dresser and her husband Tom sat with the Board and 1<sup>st</sup> showed that the house was on an undersized lot and did not conform to the front and side setbacks for an R2 residence. Their project is to rebuild an existing deck and add a three foot extension running parallel to the existing nonconforming side setback. The plan also includes two additional feet for uncovered steps.

3. Three letters were read at the hearing supporting the applicant's request. One neighbor spoke in favor of the newly designed deck.

4. George made a motion to approve the plans as presented

5. The Board voted to rebuild a nonconforming deck and add 3 feet to it.  
The motion carried 5 – 0.

C. Decision

6. A majority (4 votes) of the 5 member Zoning Appeals Board is required to approve the Application. Accordingly, the motion to approve carried and the application is granted.

## E. Reasons/Findings

7. As articulated during the course of the meeting, the Appeals Board Members who vote in favor of the motion to approve the application make the following findings;

- a. The applicants have the right to apply for a special permit under zoning by-law 3.5.5
- b. The rebuilt deck was deemed minor and it was pointed out that a significant number of decks had been redone by special permit in that neighborhood.
- c. There were statements and letters from neighbors supporting the proposed reconstruction of the existing deck;
- d. The project appeared to be not substantially more detrimental to the neighborhood than what currently existed.

As the law provides, appeals, if any, shall be made pursuant to Section Seventeen (17) of Chapter 40 – A, The Zoning Act, and shall be filed within twenty (20) days after the filing of this decision in the Office of the Oak Bluffs Town Clerk.

Said Board of Appeals is a legally constructed Appeals Board, exercising the powers granted to it under Section Fourteen (14) of Chapter 40 – A, and under Chapter 831, a 1977 Act further regulating the protection of lands and the waters of the island of Martha's Vineyard.

As required by law, The Board of Appeals certifies that copies of this decision and documents referred to in it, have been filed with the Oak Bluffs Building Inspector, Planning Board and Town Clerk. This decision does not relieve the applicant from obtaining all other necessary permits.

After expiration of the twenty (20) day appeal period, the applicant will receive the original copy of this decision. It will include the original signature page, signed by the members of the Board of Appeals presiding at the hearing. This copy will verify, by the Town Clerk, that no appeals have been filed, and if there were appeals filed those said appeals were dismissed or denied against this decision. At that time, the decision, along with the original signature page must be filed at the Dukes County Registry of Deeds before it is legally recognized.

Recorded Vote

The following members of the Zoning Board of Appeals voted to grant a special permit to Joyce C. Dresser of 79 Meadow Avenue allowing the rebuilding of a nonconforming deck and adding 3 feet to it.

\_\_\_\_\_  
(Kris Chvatal)

\_\_\_\_\_  
(Gail Barmakian)

\_\_\_\_\_  
(George Warren)

\_\_\_\_\_  
(Joseph Re)

\_\_\_\_\_  
(Jane Lofgren)

Received and filed in the Office of the Town Clerk:

Date:\_\_\_\_\_