

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

March 12th, 2009

Re: Application of Thomas L. Clancy Jr. & Alexandra M. Clancy, 8 & 12 Naushon Way, Oak Bluffs, Ma. Map 10, Lots 143 & 144

Applicants are seeking a **Special Permit** to demolish two pre-existing, nonconforming residences and replace them with one new residence.

A. Background

1. By application received February 3, 2009 from the Town Clerk's office, a hearing was requested from the applicant on his request before the Board of Appeals.

B. Summary of Meeting

2. On March 12th Zoning Board Chairman Kris Chvatal opened a duly posted public hearing. A quorum consisting of Kris Chvatal; George Warren; Gail Barmakian; Joe Re; and Peter Palches were present. Engineer George Sourati represented the Clancys. George showed the board a locus and explained that the applicant owned 3 adjoining homes on Naushon Avenue. He said the proposal is to tear down the two homes, merge the two lots into one and build a new residence.

There was determination that the two homes proposed to be demolished were bought in 2005. George showed a site plan that had the two house locations and the property line they plan on eliminating. He said the new footprint will maintain the current 11 foot setback to Naushon Ave that the current house at #12 Naushon has but reduce the side setback to Katama Avenue 35 feet down to 26 feet.

Gail pointed out that combining the square footage of the two lots will still make it undersized for an R2 property and #12 Naushon, where the new residence will go, is in the front setback.

Gail said the proposal is to reconstruct a nonconforming structure on a nonconforming lot. George said the new residence will have 3 sides conforming to R2 setbacks. Peter said there will be more open land space as a result of the combined lots having one home.

The Board discussed the differences in square footage, both gross and living, between the old house and what is proposed. It was pointed out the new home will have more living but less gross square footage than the two old homes combined.

George showed elevations of what the house would look like. Board members discussed what other accessory structures could go on the property at a later date and the history of how all the lots were acquired.

3. There was no correspondence to be read at the hearing. Two neighbors spoke of concerns the new residence could have with surrounding neighborhood views and the proximity of the house to traffic and parking on Naushon & Katama Avenues.

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

5. The Board voted to approve a special permit to replace the two houses with one on two residential lots being merged into one. 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. There is no increase of existing nonconformity and an actual decrease of total nonconformity because two lots are being merged into one;
- c. There is no increase of existing nonconformity and an actual decrease of total nonconformity because one of the nonconforming homes is being done away with;
- d. There is no increase of existing nonconformity because the new residence will maintain the current 11 foot front setback at 12 Naushon Avenue;
- e. Several community review boards have determined that the new residence fits into the neighborhood;
- f. The creation of open space is a positive for the neighborhood;

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 Tom and Alexandra Clancy of 8 & 12 Naushon Avenue to demolish the two pre-existing, nonconforming residences and replace them with a new building.

(Kris Chvatal)

(Gail Barmakian)

(George Warren)

(Joseph Re)

(Peter Palches)

Received and filed in the Office of the Town Clerk:

Date:_____