

Zoning Board of Appeals  
Town of Oak Bluffs

Kris Chvatal, Chairman

Members:

Derek Tipton

Joe Re

George Warren

Peter Palches

Associate Members:

Andrea Rogers

Peter Yoars

NOTICE OF DECISION

January 21<sup>st</sup>, 2010

Re: Application of Patricia A Egan, 5 Elmwood Avenue, Oak Bluffs, MA.  
Map 8, Lot 25

Applicant is seeking a **Special Permit** to build a storage shed, garage with apartment and mudroom addition onto a pre-existing, nonconforming residence and locate an existing shed to an area of the lot inside the dimensional setbacks for an R-2 property.

A. Background

1. By application received December 28, 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 January 21<sup>st</sup> Zoning Board Chairman Kris Chvatal opened a duly posted public hearing. A quorum consisting of Kris Chvatal, Joseph Re, Peter Palches, Derek Tipton and Peter Yoars were present. Patricia Egan and Steve Masterson showed the board that they have a 192 sq. foot shed next to the residence that they want to move to the corner of the lot 1 foot from the property line and 15 feet from Elmwood Ave. She explained that the shed could not conform to 20' setbacks because the lot area had to remain open for a septic field. Nonconforming setback and lot size issues for the R-2 residence were discussed.

Peter P asked if the structure to be moved was truly a shed. Patty & Steve stated that it would be for storage only; they had no plans to make it habitable even though it had a history of being a former cottage moved up from the campgrounds in the 1920's. There was discussion on shed/garage structures being 10' off the property line.

Kris went through the conditions for having an accessory apartment above the garage and found that the applicant met all of them to allow it by right. Board members expressed concern that the storage shed added to the outside of the garage apartment would go into the 20' setback, creating a new nonconformity. Kris didn't think the board could allow it without a variance. It was pointed out that if it were detached, even by 6", because its footprint is only 96 sq. feet, it could then be 5' off the side property line. There was

agreement that the planned shed would be detached and the other shed be no less than 10' from the lot line to be allowed.

3. No one spoke either for or against the project during public comment. Five letters from a direct abutter and several other 300' abutters were read, all in support of the proposed mudroom, garage with apartment above and storage shed.

4. Derek Tipton made a motion to approve the plans as presented with the following conditions:

1. The proposed 96 square foot storage shed is to be detached from the proposed garage/guest apartment;
  2. The new location of the existing 192 square foot shed on the property is to be moved to a location no closer than 10' from the property lines;
  3. The relocated shed is to have no plumbing and never be used for residential purposes.
- The motion carried 5 – 0.

#### C. Decision

5. 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.

#### D. Reasons/Findings

6. 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 applicant has the right to apply for a special permit under zoning by-law 3.5.5;
- b. The detachment of the proposed 96 square foot shed allows it to be placed in the requested location and the proposed new shed far enough away from the septic field;
- c. The applicant had received a letter of support from the direct abutter most impacted by the proposed changes;
- 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. Any changes to the project receiving a special permit, no matter how minor, have to be brought back to the Board for further approval.

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 Patricia A Egan of 5 Elmwood Avenue to build a garage with apartment and mudroom addition onto a pre-existing, nonconforming residence and locate an existing shed to an area of the lot 10 feet from the setbacks for an R-2 property.

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

\_\_\_\_\_  
(Peter Yoars)

\_\_\_\_\_  
(Derek Tipton)

\_\_\_\_\_  
(Peter Palches)

\_\_\_\_\_  
(Joe Re)

Received and filed in the Office of the Town Clerk:

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