

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

February 18th, 2010

Re: Application of Charles Hajjar, 10 Anthiers Ln, Oak Bluffs, MA.
Map 30, Lot 2

Applicant is seeking a **Special Permit** to allow the construction of a pool inside the 50 foot setback for an R-3 residence

A. Background

1. By application received January 29, 2010 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 February 18th Zoning Board Chairman Kris Chvatal opened a duly posted public hearing. A quorum consisting of Kris Chvatal, Joseph Re, Peter Palches, Derek Tipton and George Warren were present. Engineer George Sourati showed the site plan for a house under construction. He showed where the 50' setback is and how they want to build on a location where the slope of the property is the least and where they won't have to elevate the structure because of the lot's high groundwater clearance. He said they would level the grade and create a patio next to the pool.

There was discussion to move the pool's spa area to another area on the site at the request of an abutting neighbor. The pool will be 37' away from the side setback. Board members talked about considering sliding the pool further over to comply. George said if that the case the pool will have to be elevated to clear groundwater underneath.

3. During public comment, no one spoke in favor or against the proposed project. There was no correspondence to be read.

4. Peter made a motion to approve the plans as presented. 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 4.4.5.2;
- b. Keeping the pool's spa 37 feet from the property line and abutting properties adequately reduces the detrimental impact the structure will have on 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. 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 Charles Hajjar at 10 Anthiers Lane to allow the construction of a pool inside the 50 foot setback for an R-3 residence

(Kris Chvatal)

(George Warren)

(Derek Tipton)

(Joe Re)

(Peter Palches)

Received and filed in the Office of the Town Clerk:

Date:_____

