

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 Daniel Richheimer & Jennifer Kennedy, 15 Spindles Path,
Oak Bluffs, MA. Map 17, Lot 87

Applicant is seeking a **Special Permit** to convert an existing nonconforming accessory structure into a guest apartment with less than 5 years of owner residency

A. Background

1. By application received January 29, 2010 from the Town Clerk's office, a hearing was requested from the applicants 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. Daniel and his father Skip explained that he had just bought the home with an understanding that an existing accessory structure be permitted as a guest house. He bought the home with the former owner in possession of a building permit to allow the conversion of the accessory structure into a one bedroom guest apartment. After the sale occurred he found out that there was a condition he couldn't meet not being an owner for five previous years.

Kris pointed out the nonconforming setback issues for the current workshop building. Daniel said they would be keeping the same building with a small bump out area for storage. Kris said that under 3.4.2 the applicant can't meet the 5 year rule. Daniel said they are moving from California next May to live on island year round. He said they plan to nly use the apartment for family and friends and not to rent it out.

Zoning Administrator Adam Wilson explained that the five year rule was in effect to prevent speculation building.

3. During public comment, Moira Fitzgerald, an abutter, stated she had seen the plans and approved of them. There was no correspondence to be read.

4. Derek made a motion to approve the plans as presented. The motion carried 4 – 1.

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 3.4.3;
- b. The applicant testified to the fact he had not bought the house on speculation;
- c. The 5 year rule is looked at on a case by case basis and the applicant is only seeking permission to convert an approved guest apartment that doesn't add any additional buildings to the town.

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 Daniel & Kathleen Richheimer at 15 Spindles Path to convert an existing nonconforming accessory structure into a guest apartment with less than 5 years of owner residency

(Kris Chvatal)

(George Warren)

(Derek Tipton)

(Joe Re)

Received and filed in the Office of the Town Clerk:

Date:_____