

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

March 18th, 2010

Re: Application of Fred Walters, 44 Windemere Road, Oak Bluffs, MA. Map 6, Lot 10

Applicant is seeking a modification of **Special Permits** given to Casper R. Joseph Sr., Casper R. Joseph Jr., and Gregory B. Joseph to demolish a pre-existing, nonconforming residence and replace it with a new building to go above the 24' height threshold in the Coastal District.

A. Background

1. By application received March 10th, 2010 from the Zoning Administrator's office, a meeting was requested from the applicant on the request before the Board of Appeals.

B. Summary of Meetings

2. On March 18th Zoning Board Chairman Kris Chvatal opened the duly posted public meeting. A quorum consisting of Kris Chvatal, George Warren, Peter Palches, Derek Tipton and Joe Re were present. Fred Walters came to the board as a new owner and Bob Sparks had a purchase & sales agreement showing the Fred intended to buy the home but wanted to replace it with a stick frame construction instead of the modular plans the board approved with the special permit to the Joseph Family.

-Kris asked if there was any change in the number of bedrooms in the house. Fred said it was still 3. He did say he wanted to add a 2nd floor deck that would be an increase of 250 square feet.

-The approved home was to have 3 bathrooms and Fred was looking for 3 ½. Board members felt that because the residence was in the Coastal district, there couldn't be any increase in bathrooms so Fred agreed to keep it at 3.

Patrick King from Windemere Road had a document from 5 neighbors, including himself, that supported the change in plans to build a stick framed house. There was discussion on the height still having to be 27' from grade to satisfy ConCom's conditions of having the 1st floor out of the flood plain. Kris felt it wasn't necessary to have 9' ceilings on the 1st floor and asked Fred if it could be the same as the 2nd floor. Fred agreed to have both floors at 8'. Derek made a motion to approve the modification of the plans to replace the structure at 44 Windemere Road with stick frame construction instead of modular with the conditions that

the house would only have 3 bathrooms, an allowed deck expansion of 250 square feet and ceiling heights on both floors at 8'. George seconded.

C. Decision

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

D. Reasons/Findings

8. 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 zbl 10.5.c, i;
- b. A majority of board members agreed that the increase in height of the residence won't be detrimental to the visual character along Seaview Avenue.

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 Michael Lehr of 133 Seaview Avenue to allow the height of the residence to go from 26 to 28 feet from mean average grade in the Islands Roads District.

(Kris Chvatal)

(George Warren)

(Derek Tipton)

(Joe Re)

Recorded Vote

The following members of the Zoning Board of Appeals voted to grant a **special permit** to Michael Lehr of 133 Seaview Avenue an alteration of the land form in the flood plain overlay district

(Kris Chvatal)

(Joe Re)

(Derek Tipton)

(Peter Palches)

(George Warren)

Recorded Vote

The following members of the Zoning Board of Appeals voted to grant a **special permit** to Michael Lehr of 133 Seaview Avenue to alter and add to the pre-existing, nonconforming residence.

(Kris Chvatal)

(Joe Re)

(Derek Tipton)

(Peter Palches)

(George Warren)

Recorded Vote

The following members of the Zoning Board of Appeals voted to grant a **special permit** to Michael Lehr of 133 Seaview Avenue to allow the alteration and addition to the residence in the Coastal District Shore Zone.

(George Warren)

(Joe Re)

The following members of the Zoning Board of Appeals voted to not grant a **special permit** to Michael Lehr of 133 Seaview Avenue to allow the alteration and addition to the residence in the Coastal District Shore Zone.

(Kris Chvatal)

(Peter Palches)

(Derek Tipton)

Received and filed in the Office of the Town Clerk:

Date:_____