

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

April 29th, 2010

Re: Application of Richard C. & Julia E. Schnetke, 69 Brush Pond Road, Oak Bluffs, MA. Map 7, Lot 16

Applicants are seeking **Special Permits** to build a 280 square foot screened porch + roof deck on to a pre-existing, nonconforming residence that is in the Shore Zone of the Coastal District.

A. Background

1. By application received April 2, 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 April 29th Zoning Board Chairman Kris Chvatal opened a duly posted public hearing. A quorum consisting of Kris Chvatal, George Warren, Peter Palches, Derek Tipton and Joe Re were present. Designer Tom Carberry from Sam Sherman Associates showed the board a plan to add a 280 square foot screened porch and a roof deck on to a home that is on a conforming lot. He showed where the house is in the side setback. He showed where the residence is in relation to the water. He said both the Board of Health and the Conservation Commission have approved the project. He explained that the applicants want to create a new screened porch area that would have a deck above that would be connected to an existing master bedroom second floor balcony. Joe asked if any plumbing was being added and Tom said no, that the new porch was unconditioned space and its access would be through an exterior door.

On the site plan the 14 X 20' screened porch was shown to meet setbacks towards the side and rear of the property. Kris asked if the height of the existing structure changes. Tom says it does not. Peter asked if the new addition goes closer towards the water. Tom said the project is within the 100' foot line to the top of the coastal bank.

-Kris said the board should consider two separate permits for 3.5.5 because the residence is nonconforming and 9.6.1 because the structure is in the Coastal District.

3. In the time for public comment, Kris read correspondence from 2 abutting neighbors who approved of the proposed plans. He asked if anyone wished to speak on the application. No one did.

4. Kris then asked for a consideration of a special permit to alter and add to the pre-existing, nonconforming residence under zoning by-law 3.5.5.

5. Derek made a motion to approve the plans as presented. 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.

D. 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 zbl 3.5.5;
- b. the proposed alteration is not substantially more detrimental to the neighborhood than the existing nonconforming residence.

E. Summary of Meeting Pt. II

8. The board discussed that the current application doesn't show an increase in plumbing or sanitary disposal facilities that are prohibited under shore zone regulations. Joe said the run off of rain water from the new addition is mitigated away from the resource area. Kris said the new addition meets Coastal District height restrictions.

9. George made a motion to approve the plans as presented. The motion carried 5 – 0

F. Decision

10. 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.

G. Reasons/Findings

11. 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 zbl 9.6.A.1;
- b. The application appears to meet the height requirement and having no additional plumbing or increase in sanitary disposal facilities in the Shore Zone of the Coastal District.

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 unanimously to grant **special permits** to Richard C & Julia E Schnetke to build a 280 square foot screened porch + roof deck on to a pre-existing, nonconforming residence that is in the Shore Zone of the Coastal District at 69 Brush Pond Road.

(Kris Chvatal)

(Joe Re)

(Derek Tipton)

(Peter Palches)

(George Warren)

Received and filed in the Office of the Town Clerk:

Date: _____