

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

July 15th, 2010

Re: Application of James D. & Pamela U. Butterick, 359 Barnes Road, Oak Bluffs, MA. Map 27, Lot 11.1

Applicants are seeking a **Special Permit** to add a two car garage with an attached porch and deck on to a pre-existing, nonconforming residence.

A. Background

1. By application received June 28, 2010 from the Town Clerk's office, a hearing was requested from the applicant on the requests before the Board of Appeals.

B. Summary of Meeting

2. On July 15th Zoning Board Chairman Kris Chvatal opened a duly posted public hearing. A quorum consisting of Kris Chvatal, George Warren, Peter Yoars, Derek Tipton and Joe Re were present. Representing the applicant was builder Dan Perry. Jim Butterick was also present. Dan showed the board that one side of the residence does not meet existing 50' setbacks. Dan showed on a site plan a 492 square foot garage would be built 15 feet from the side lot line but it would also have an 8 X 10' screened porch connected to the house to be used as breezeway. Dan said there would be an egress deck off of both the porch and garage.

Kris stated that the proposed plan will increase a nonconforming setback. He noted that the residence is currently 42 feet from the side line and the addition would bring it down to 15 feet. He said that under the by-law that deals with nonconforming uses and structures, the board has to find that the proposed change is not substantially more detrimental than the existing one. Dan said the owners are looking to get permission now to put on the extension to the house instead of building the garage and asking for the connecting structure sometime in the future. There was discussion on the interpretation of the dimensional regulations for detached accessory structures. Joe asked what the 10 X 8' porch would be used for. Dan said it will be primarily a walkway between house and garage.

3. In the time for public comment, there was no correspondence to be read. Carla Rolde, a neighbor on Barnes Rd. asked why the garage needed a porch and a deck. Adam Wilson, the Zoning Administrator, stated that the abutter notice stated that the garage would have a

porch addition but did not include language that the porch was simply a connector type structure used to travel from the garage to the residence.

4. George made a motion to approve the plans as presented to allow the garage addition to be built 15 feet from the side property line. The motion failed 2 – 3.

C. Decision

5. A majority (4 votes) of the 5 member Zoning Appeals Board is required to grant the special permit. Accordingly, the motion to approve failed and the application is denied.

D. Reasons/Findings

6. As articulated during the course of the meeting, the Appeals Board Members who voted in the majority against the motion to approve the application make the following findings;

- a. The applicant has the right to apply for a special permit under zbl 3.5.5;
- b. The proposed garage and porch addition reduced the side setback from 42 down to 15 feet which is substantially more detrimental to the neighborhood than what currently exists.

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.

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 can be kept for personal filing.

Recorded Vote

The following members of the Zoning Board of Appeals voted to grant a **special permit** to James & Pamela Butterick of 359 Barnes Road to add a two car garage with an attached porch on to a pre-existing, nonconforming residence.

(George Warren)

(Joe Re)

The following members of the Zoning Board of Appeals voted to not grant a **special permit** to James & Pamela Butterick of 359 Barnes Road to add a two car garage with an attached porch on to a pre-existing, nonconforming residence

(Kris Chvatal)

(Peter Yoars)

(Derek Tipton)

Received and filed in the Office of the Town Clerk:

Date:_____