

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 Peter J. & Judith C. Case, 65 Brush Pond Road, Oak Bluffs,
MA. Map 7, Lot 18

Applicants are seeking **Special Permits** to build several additions and a deck on to a pre-existing, nonconforming residence that is in the Shore Zone of the Coastal District.

A. Background

1. By application received June 28th, 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 July 15th Zoning Board Chairman Kris Chvatal opened a duly posted public hearing. A quorum consisting of Kris Chvatal, George Warren, Andrea Rogers, Derek Tipton and Joe Re were present. Peter showed board members that the southeast corner of the property is where the house is 17 feet from the lot line. Also in the northeast corner there is a deck that is in the shore zone. Peter said that the plan is to expand the house without further encroaching on the southeast corner. The expansion proposal would rearrange the floor plan involving a bedroom and laundry area and to improve a deck to be adjacent to the living/dining room area. Another proposed expansion is to take an existing patio and replace it with a screened porch. Peter said the goal is to have more room in the residence as they make plans to use it beyond just the summer season.

Kris asked what the current distance was from the side setback where the patio is. Peter said it is 30 feet. The proposed screened porch would reduce the setback down to 17 feet. 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.

Duncan Holthausen @ 38 Brush Pond Rd. spoke in favor of the proposed additions.

Kris noted that on one side of the house the existing nonconformity is not affected by the proposed additions. But on the other side, where the proposed porch was being built over the former patio, there was an introduction of a new nonconformity. Kris proposed that the

porch be no less than 20 feet from the side setback. Peter said he'd make the porch 20 feet from the property line.

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 provided that the proposed porch is reduced to allow for a 20 foot setback. 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.

9. Andrea 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 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 Peter J. & Judith C. Case to build several additions and a deck on to a pre-existing, nonconforming residence that is in the Shore Zone of the Coastal District at 65 Brush Pond Road.

_____	_____
(Kris Chvatal)	(Joe Re)

_____	_____
(Derek Tipton)	(Andrea Rogers)

(George Warren)

Received and filed in the Office of the Town Clerk:

Date:_____