



**OAK BLUFFS ZONING BOARD OF APPEALS**  
P.O. BOX 1327, OAK BLUFFS, MA 02557-1327

**NOTICE OF DECISION**      **February 2, 2022**

**RE: Cash Appeal**  
Clemmie and James Cash  
9 Sengekontacket Road  
Map 48 Parcel 18

The Oak Bluffs Zoning Board of Appeals held a duly posted Public Hearing on **Thursday, January 20, 2022 at 6:05pm** via an hybrid In-Person/Zoom meeting in the Oak Bluffs Library Meeting Room on the application of petitioners abutting the referenced property seeking:

**A Special Permit under Zoning Bylaws 3.5.5, 4.1.3, and 4.2.1, or any action related thereto, to allow the construction of a below-grade retaining wall for an uncovered stair and walk-out from basement level to finish grade on a non-conforming structure on a pre-existing and non-conforming lot in Residential Zone R3.**

**DECISION: A motion was made to approve the Special Permit under Zoning Bylaw Section 3.5.5, 4.1.3, and 4.2.1 to allow the construction of an entry deck and a below grade retaining wall for an uncovered stair and walkout from the basement level on a non-conforming structure on a non-conforming lot. A roll call vote was taken. The board voted 5-0 to approve the Special Permit with conditions.**

**Procedural History:**

- On November 19, 2021, the Zoning Board of Appeals (ZBA) received an application from Clemmie and James Cash,
- On January 6, 2022, abutters were noticed by mail and first publication in the MV Times,
- On January 13, 2022, second notice was published in the MV Times,
- On January 20, 2022 the public hearing was opened,
- On January 20, 2022, the following findings and decision were made.

**Findings of Fact: Doug Pease made the following findings.**

- The lot is zoned R-3,
- The lot is non-conforming because it is too small (30,492 sq. ft., required: 60,000 sq. ft.) and does not have the road frontage (130 ft./ 150 required),
- the proposed walkout will reduce one non-conforming side setback by four feet to 31 ft (Required 50/50/50),
- three members visited the site, and
- this project will not be more detrimental to the neighborhood as it is a de minimus adjustment to the property.

**Vote:**

Doug Pease moved that the ZBA issue a Special Permit under Zoning bylaw 3.5.5, 4.1.3, and 4.2.1 to allow the construction of an entry deck and a below grade retaining wall for an uncovered stair and walkout from the basement level on a non-conforming structure on a non-conforming lot, with three Special Conditions:

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- (1) the proposed entry deck will be reduced in size so it does not extend more than four feet from the front of the house because of setback issues,
- (2) the cement walkout will not be more than twelve inches above grade, and
- (3) the walkout will remain uncovered.

Jonathan Holter seconded the motion.

All (Andrea Rogers, Lou Rogers, Jonathan Holter, Grace Guck and Doug Pease) voted in favor, so the motion passed unanimously (5-0).

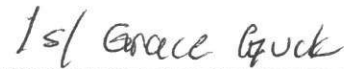
**Members sitting for the Board of Appeals at this hearing were:**

  
\_\_\_\_\_  
Andrea Rogers

\_\_\_\_\_  
Jonathan Holter

  
\_\_\_\_\_  
Doug Pease

  
\_\_\_\_\_  
Llewellyn Rogers

  
\_\_\_\_\_  
Grace Guck

A copy of this decision was filed in the office of the Town Clerk, on February 3, 202~~2~~ Appeals, if any, should be made pursuant to Section 17, of Chapter 40A of the Massachusetts General Laws and should be filed within 20 days of the filing of this decision in the office of the Town Clerk, excepting that such timeframe may be suspended and extended pursuant to Section 17 of Chapter 53 of the Acts of 2020 (Covid-19).

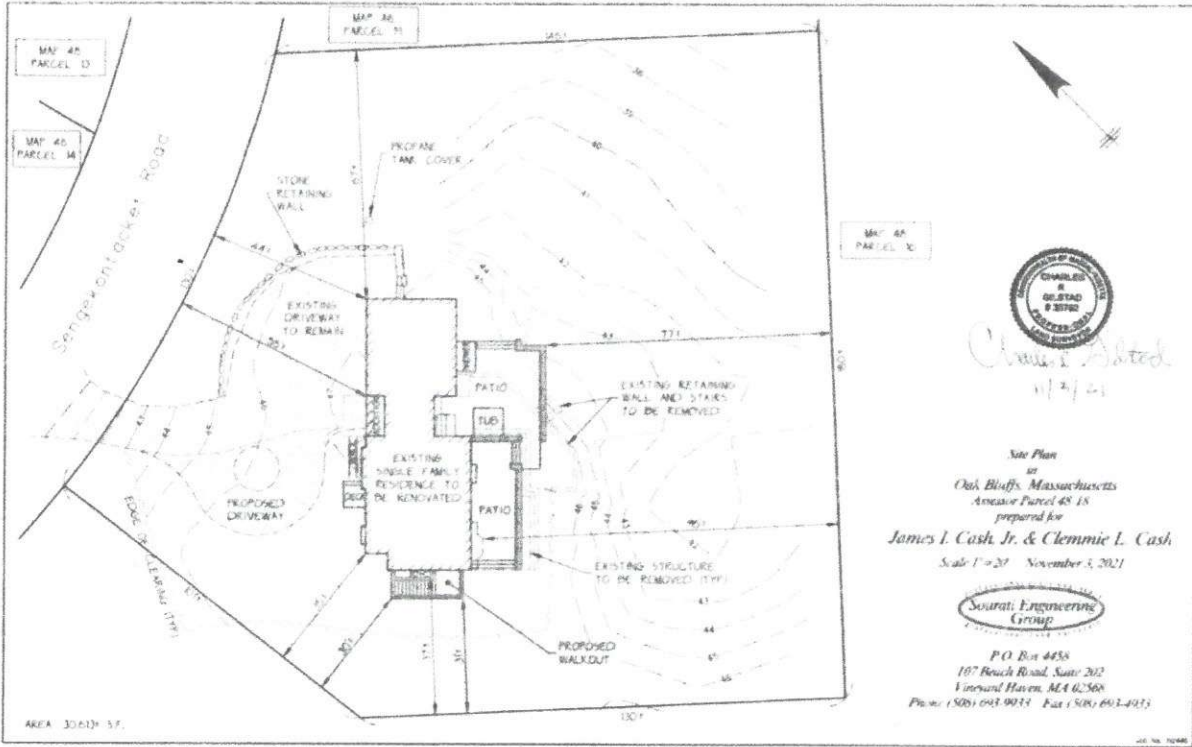
Received and filed in the Office of the Town Clerk:

Date: FEBRUARY 3, 2022

I hereby certify that no appeal has been filed within the twenty-day period following the date of the filing of this decision.

Attest: \_\_\_\_\_  
Colleen Morris, Town Clerk

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*Shelly Ray*  
 2-2-22  
 15/ Grace Guck  
 3-2-22

*Tom Chase* 2/2/22  
*Judith Day*  
 2-2-22