



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: November 20, 2009

PETITION NO: #4281

HEARING DATE: November 12, 2009

PETITIONER: Christine M. Hoeske, Trustee

PROPERTY: 7 Doherty Lane, West Yarmouth
Map & Parcel: 0014.79; Zoning District: R25
Deed Reference: Doc#947631

MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Joseph Sarnosky, Sean Igoe, Diane Moudouris, Debra Martin, and David S. Reid, Alternate.

Notice of the hearing has been given by sending notice thereof to the Petitioner and all those owners of property as required by law, and to the public by posting notice of the hearing and publishing in *The Register*, the hearing opened and held on the date stated above.

The petitioner seeks a Special Permit from bylaw §104.3.2, to extend their existing rear deck an additional 5 feet to the rear lot line, making the rear setback 14.6 feet. The property contains approximately 6,750 square feet and is improved with a pre-existing non-conforming single-family three (3) bedroom home. The extension of the deck will increase the lot coverage to 25%.

During the hearing, the Board received five photographs of the subject area which were entered as Exhibits. The Board also considered various other photographs, previously submitted correspondence both in favor and in opposition to the proposal, and heard from Faye McCloskey, an abutter, who spoke in opposition to the petition with concerns about privacy.

The Board generally noted that it was the intended character of this neighborhood that the properties are in close proximity. The existing deck which the Petitioners seek to extend is very small and has limited functionality. The deck extension would create a relatively modest first level deck which might actually serve to keep the Petitioners' use of their back yard more confined instead of sprawling into the lawn covered area separating the properties.

The Board was also persuaded by the approval of the Petitioners' plans by the Great Island Ocean Club Homeowner's Association Board of Directors, approval noted in its 09/28/09 correspondence. The Board concurred that the planned deck extension would not result in any substantial harm to the established or future character of this neighborhood or the Town.

Therefore, on Motion made by Ms. Martin, seconded by Mr. Igoe, the Board voted unanimously to approve the grant of Special Permit without conditions.

No permit shall issue until 20 days from the filing of this decision with the Town Clerk. This decision must be recorded at the Registry of Deeds and a copy forwarded to the Board of Appeals. Appeals from this decision shall be made pursuant to MGL c40A section 17 and must be filed within 20 days after filing of this notice/decision with the Town Clerk. Unless otherwise provided herein, the Special Permit shall lapse if a substantial use thereof has not begun within 24 months. (See bylaw §103.2.5, MGL c40A §9)

Steven DeYoung, Chairman