



TOWN OF YARMOUTH  
BOARD OF APPEALS  
DECISION

COMPREHENSIVE PERMIT

**FILED WITH TOWN CLERK: November 23, 2009**

**PETITION NO: #4275**

**HEARING DATE: November 12, 2009**

**PETITIONER: Yarmouth Housing Authority**

**PROPERTY: 225 Station Avenue, South Yarmouth  
Map & Parcel: 079.150; Zoning District: R40  
Book & Page#: 5543/289**

**MEMBERS PRESENT AND VOTING: Sean Igoe, Chairman, Joseph Sarnosky, Debra Martin, John Richards, David Reid.**

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.

This application requests to modify Decision #2590. The Property is located in the R-40 zone. The lot contains approximately 29,545 sq. ft. of land area and is currently improved with a single-family house and four attached apartments, for a total of five (5) residential dwelling units.

The Petitioner obtained a Comprehensive Permit from the Board of Appeals in 1988 (Petition No. 2590) (a copy of which is attached hereto as Exhibit A). Subsequently, the Comprehensive Permit Decision was appealed to the Housing Appeals Committee, and there was a Stipulated Agreement between the Petitioner and the Town of Yarmouth (a copy of the Housing Appeals Committee Decision and attached Stipulated Agreement is attached hereto as Exhibit B). The final Comprehensive Permit Decision authorized construction of the additional four attached apartments and limited the occupancy of the Property to a residence for single parent, female teens and their offspring, among other conditions.

At this time, the Petitioner is seeking to substitute an amended resident class for the Property and to therefore modify those Findings and Conditions in the final Comprehensive Permit Decision that reflect the original resident class of female teen parents and their offspring. The new residents will be low income persons with intellectual disabilities who are participants in the Chapter 689 Special Needs Housing Program under the auspices of the MA Department of Housing and Community Development. The lessee/operator of the Property from the Petitioner under the Chapter 689 Program will be Cape Abilities, Inc. Cape Abilities is a local nonprofit organization that has been serving Cape Cod since 1968 (first known as Nauset Workshop, Inc. and then as Nauset, Inc.). Cape Abilities currently operates 13 group homes for adults' age 22 years and above and supports close to 100 people in its residential program.

There are no changes proposed to the number of units at the Property, and there will continue to be no more than eight (8) residents living at the Property. The Property will provide a shared living situation in the four-bedroom house in addition to the residential use of the four attached apartments. The apartments will be occupied by residents requiring less daily supervision. The house will be occupied by residents requiring more intensive supervision with live-in support. Some of the residents work in the community, while others participate in local day programs. All residents at the facility will have gone through a screening process, to determine that this facility is appropriate for their needs and abilities. CORI checks will be included in the screening process, and no residents or staff will be approved who have criminal histories.

No one appeared either in favor of or in opposition to the proposal.

The Applicant submitted and the Board hereby finds that allowing the amended resident class at the Property will continue to have no adverse impact on the health, safety, or open space needs of either the facility residence, abutters, or the general public, and will have a minimal effect on the character of the neighborhood. The Board further finds that the Property with the Comprehensive Permit as amended will continue to be consistent with local needs.

A motion was therefore made by Mr. Reid, seconded by Mr. Richards, to grant the petition to amend the Comprehensive Permit granted in Decision #2590 to substitute a new resident class of low income persons with intellectual disabilities who are participants in the Chapter 689 Special Needs Housing Program under the auspices of the MA Department of Housing and Community Development, and to modify certain conditions of the final Comprehensive Permit Decision and upon certain additional conditions as follows:

1. Final Condition No. 2 is hereby deleted in its entirety and substituted as follows:

“2. The facility is to be used as a residence for no more than seven (7) low income persons with intellectual disabilities under the auspices of the Chapter 689 Special Needs Housing Program of the Commonwealth of Massachusetts, as amended over time. There shall be at least one resident staff person on duty at all times when there are residents in the shared living situation. There shall be no increase in the number of residents at the Property beyond eight (8) (inclusive of staff and clients) unless the Zoning Board of Appeals, after notice and hearing pursuant to M.G.L. Chapter 40B, as amended, agrees to further modify the Comprehensive Permit.”

2. Final Condition No. 3 is hereby deleted in its entirety.

3. Final Condition No. 6 is hereby deleted in its entirety and substituted as follows:

“6. In the event that the use identified above in Condition No. 2 is discontinued, all but one of the kitchens must be removed from the Property unless the Zoning Board of Appeals, after notice and hearing pursuant to M.G.L. Chapter 40B, as amended, agrees to further modify the Comprehensive Permit.”

4. It is expressly required that the operator of the facility at the Property from time to time, whether the Petitioner or a lessee therefrom, remain at all times subject to the terms of the final Comprehensive Permit Decision as amended

herein, and the Petitioner shall be responsible for so informing its licensee or operators, and providing it/them with a copy of this decision and the Comprehensive Permit.

Except as herein expressly modified all previous relief shall remain in force and effect, to the extent not inconsistent with this relief. The Board members voted unanimously in favor of this motion. Modification of the previous relief is therefore granted.

No permit shall issue until 20 days from the filing of this Decision with the Town Clerk. Appeals from this Decision shall be made pursuant to M.G.L. c. 40A, Section 17, and must be filed within 20 days after filing of this Notice/Decision with the Town Clerk. As provided by the provisions of said c. 40B, or otherwise, this Comprehensive Permit shall lapse if timely use hereof is not commenced and continued

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Steven DeYoung, Clerk