



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: January 20, 2010

PETITION NO: #4288

HEARING DATE: January 14, 2010

PETITIONER: Umberto DiTullio,

**PROPERTY: 40 Silver Leaf Lane, West Yarmouth
Map & Parcel: 0022.122 ; Zoning District: R25
Book & Page: 2128/250**

MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Sean Igoe, Joseph Sarnosky, Debra Martin, Bob Howard and Bryant Palmer, 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, Umberto N. DiTullio, appeared by way of his representatives, Jonathan Silva and Robert Coutu. The Petitioner seeks a Special Permit to extend a pre-existing, non-conforming use in connection with property located at 40 Silver Leaf Lane, Yarmouth, Massachusetts, which is located within an R-25 zoning district.

The Petitioner proposes to add to the front of the existing single family structure so as to increase the interior square footage of the existing ranch-style dwelling. The house sits on the corner of Berry Avenue and Silver Leaf Lane. In addition to other photographs already on file, the Petitioner's representative submitted three photographs marked as Ex. 1a-c. In addition, the Board also had a Plot Plan dated 11/11/09 which showed that when constructed, the westerly most corner of the home would be 25.1 feet from the line of Berry Avenue where it is now 29.7. It would remain more than adequately set back where the front of the home naturally faces Silver Leaf Lane.

Sympathetic to the problem for many such owners of corner lots, the Board generally felt that the addition was modest, in keeping with the neighborhood and necessitated only by the fact that the home needed to be considered as requiring front yard set backs on both Berry Avenue and Silver Leaf Lane. The Board did not feel that the greater non-conformity was significant or would result in any nuisance, hazard or congestion and that, when completed, the property would not cause the neighborhood or Town any substantial harm.

The submitted Plot Plan did, however, show that the fence about the Petitioner's property, in part, was off his premises and into the layout of Berry Avenue and Silver Leaf Lane. The Board Members concurred that this condition, now identified, needed to be rectified and so, on Motion

made by Mr. Igoe, seconded by Ms. Martin, it was unanimously voted to approve the grant of Special Permit for construction of an addition to the existing structure and according to the Petitioner's submitted plans with the following conditions:

1. That the Petitioner remove any fencing/structure that is within the road layout of either Berry Avenue or Silver Leaf Lane; and,
2. That the Petitioner provide the Board with an updated, certified Plot Plan once all work is completed.

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, MGL c40A §9)

Steven DeYoung, Chairman