



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: February 24, 2011

PETITION NO: #4325

HEARING DATE: February 10, 2011

PETITIONER: Richard F. & Soraya E. Clarke

**PROPERTY: 170 Wendward Way, West Yarmouth
Map & Parcel: 0029.09; Zoning District: R25
Doc. #1,006,809; Ctf. #177253**

MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Joseph Sarnosky, Diane Moudouris, Robert Howard and Bryant Palmer.

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 Petitioners, Richard F. Clarke, Jr. and Soraya E. Clarke seek relief by way of Special Permit under Zoning By-law §104.3.2 in connection with proposed construction of a 10' x 17' sunroom (three season room) at their property located at 170 Wendward Way, West Yarmouth, Massachusetts, property in an R-25 Zoning District.

The Petitioners' property is 9,773± sq. ft. and is comparable to other house lots in this well-established neighborhood. This lot fronts on two streets, Wendward Way and Second Road. The actual front of the house faces Wendward Way. To the south of the lot, there currently exists an odd shaped deck which is to be removed and replaced by the proposed sunroom.

Appearing for the petition were Mr. Richard Clarke, Jr. and Mr. Richard Geary of Patio Enclosures, Inc., the Petitioners' contractor.

The sunroom, when completed, will be further from Second Road than is the existing deck. The existing deck is 13.1 feet from Second Road and the proposed sunroom will be 16.4 feet. However, the existing deck varies from 14.1 feet to 15.3 feet to the rear lot line, while the new structure will vary from 14.1 feet to 10.9 feet, except only for the landing and step which will be 9.4 feet from the rear property line.

No one spoke in opposition to the requested relief and no exhibits were received at the hearing.

The Board generally felt that the change proposed was minimal and, in fact, resulted in further set-back from Second Road. Further, the Board found that grant of the Special Permit would not

create any undue nuisance, hazard or congestion nor substantial harm to the established or future character of the neighborhood or Town.

Accordingly, on Motion made by Ms. Moudouris, seconded by Mr. Palmer, the Board voted unanimously to grant the Special Permit as prayed for by the petition on the following **condition: That the completed addition remains unheated and utilized as a “three season/sunroom”.**

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