



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: May 6, 2011

PETITION NO: #4342

HEARING DATE: April 28, 2011

PETITIONER: John E. Hickey & Wayne Bryant

**PROPERTY: 14 Tilton Circle, West Yarmouth, MA
Map & Parcel: 0023.291
Zoning District: R25
Doc. #:1,147,632; Ctf. #:192331**

MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Joseph Sarnosky, Robert Howard, Diane Moudouris, Debra Martin 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 are John E. Hickey and Wayne Bryant who seek a Special Permit for the replacement and extension of a wooden deck to the rear of an existing dwelling located at 14 Tilton Circle, West Yarmouth, Massachusetts, property located in the R-25 Zoning District.

The existing deck is a distance of 10.73' from the easterly abutting property. This abutting property is, in large part, occupied by an above-ground (mounded) septic system and is shielded from Petitioners' lot by fencing installed by Petitioners.

The decking needs replacement and, as currently configured, imposes constraint on bulkhead, basement access. The deck extension of 2½ feet will provide easier access, though the deck will now be a distance of 8.3 feet from the easterly, abutting parcel.

All Board Members felt that the need for such deck extension was reasonable, necessary, of minor incursion into the set-back requirements in this particular circumstance and would, therefore, create no undue nuisance, hazard or congestion nor any substantial harm to the established or future character of the neighborhood or Town if the relief sought were granted.

Therefore, on Motion made by Ms. Moudouris and seconded by Ms. Martin, the Board Members voted unanimously to approve the grant of Special Permit as requested for by the Petitioners, without condition.

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