TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: June 11, 2013

PETITION NO. #4449

HEARING DATE: May 23, 2013

PETITIONER: Neal Allen

PROPERTY: 161 Berry Avenue, West Yarmouth, MA
Map and Lot #:0022.408;
Zoning District: R-25
Book & Page: 24819/271

MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Debra Martin, `Bryant Palmer, Richard Neitz and Robert Howard.

It appearing that notice of said hearing has been given by sending notice thereof to the petitioner and all those owners of property deemed by the Board to be affected thereby, and to the public by posting notice of the hearing and published in The Register, the hearing was opened and held on the date stated above.

The Petitioner, Neal Allen, is the owner of property at 161 Berry Avenue, West Yarmouth, MA, property in an R-25 Zoning District. The Petitioner is in the process of rehabilitating the property and seeks to include a first floor deck and a second floor Juliette deck to the rear of the existing structure. If allowed, the first floor deck would be 13.5' to the rear lot line and the Juliette deck would be 16' to the rear lot line.

After substantial discussion, inclusive of the concerns expressed by the rear abutter (Ms. Djusberg), the Board was in agreement that the Petitioner did not qualify for grant of Variance. The requirements for a Variance are specific and, unfortunately, the decks, while desirable, were felt to infringe unnecessarily into the rear set-back from the abutting residential property.

After discussion, Mr. Allen requested that the Petition be allowed to be withdrawn without prejudice. Accordingly, Mr. Palmer made a Motion, seconded by Ms. Martin, to allow withdrawal of the Petition, without prejudice to which a unanimous favorable vote was given.

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 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, a Variance shall lapse if the rights authorized herein are not excised within 12 months. (See MGL c40A §10)

Steven DeYoung, Chairman