



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: December 31, 2013

PETITION NO: #4491

HEARING DATE: December 12, 2013

PETITIONER: Warren N. Wright, Jr. and Jean A. Wright

**PROPERTY: 147 Ocean Avenue, South Yarmouth
Map & Lot#: 0025.134; Zoning District: R-25**

**MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Sean Igoe, Bryant Palmer
Chuck Hart and Richard Neitz .**

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 Warren N. Wright, Jr. and Jean A. Wright. The Petitioners seek a Special Permit for relief from rear set-back requirements so as to construct a 14' x 14' screen porch over a portion of an existing patio at property located at 147 Ocean Avenue, South Yarmouth, MA property located in an R-25 Zoning District.

Noteworthy in considering the Petition is the lot abutting the rear of Petitioners' property which is Conservation Land owned by the Town and very unlikely to be developed. The Petitioners represented that they had no intention of enclosing the porch to weather and it would remain as a screened enclosed porch only. They agreed it would not be used as a bedroom and that the porch would be constructed in the location as shown on the Plot Plan prepared by Daniel A. Ojala, PLS, dated October 8, 2013.

The distance to the rear line, when constructed, 12.0 ft. at its closest point to the abutting, Town owned property. This was what necessitates relief.

Due to the rear property being woodlands, unlikely to be developed, the Board found that the grant of the requested relief would result in no undue nuisance, hazard or congestion and would cause no substantial harm to the established or future character of the neighborhood or Town.

Motion was made by Mr. Igoe, seconded by Mr. Neitz, to allow the Petition subject to the conditions that the porch remain primarily screened (and not fully enclosed by solid walls) and that it not be utilized as a bedroom.

The Board voted unanimously in favor of this Motion and, so, the Special Permit was granted with the conditions as noted.

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