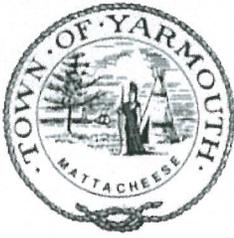


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TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: November 20, 2014

PETITION NO: #4561

HEARING DATE: November 13, 2014

PETITIONERS: Patricia Harrington and Bernard R. Tromblay (Unit 1A)

Darryl Kusek (Unit 1B)

Judith A. Basile, Trustee of the Judith A. Basile Revocable Living Trust (Unit 2)

David Eskow and Karen Goldrich Eskow (Unit 5)

Pamela M. Hill (Unit 9)

PROPERTY: 29 Lewis Bay Boulevard, West Yarmouth
Map & Parcel: 0016.48-C1A, 0016.48-C1B, 0016.48-2, 0016.48-5,
and 0016.48-9; Zoning District: R-25
Certificate #s: C355-1A, C355-1B, C355-2, C355-5, and C355-9

MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Sean Igoe, Debra Martin, Bryant Palmer, and Chuck Hart

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.

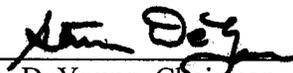
The Petitioners are Patricia Harrington and Bernard R. Tromblay (Unit 1A), Darryl Kusek (Unit 1B), Judith A. Basile, Trustee of the Judith A. Basile Revocable Living Trust (Unit 2), David Eskow and Karen Goldrich Eskow (Unit 5), and Pamela M. Hill, each of whom was well represented by Andrew Singer, Esq., and Martin T. Reilly of Reilly Associates. The Petitioners are seeking an amendment to Petition #3851, as amended in Petition #3920, in accordance with the provisions of §104.3.2 and §104.4.1 of the Yarmouth Zoning By-Law as necessary, to modify Condition 1 therein in order to allow Units 1A, 1B, 2, 5, and 9 of the Yarmouth Shores Condominium at 29 Lewis Bay Boulevard in West Yarmouth to be used for year round residential use and to eliminate the existing language limiting use of these Units to seasonal use with a requirement to annually remove water meters and file confirmation of the same with the Building Department.

A Petition in support of the proposal signed by 23 residents of the neighborhood, one letter of support, and one letter of opposition were submitted and read into the record. All of the other owners in the Yarmouth Shores Condominium support the proposal. Sam Hanmer, a resident of the Condominium, spoke in support of the proposal. Thomas Maloney, a neighborhood resident across the street, spoke in opposition to the proposal.

After a question and answer period and discussion regarding the wastewater treatment system and density, including review of a letter submitted by Wastewater Treatment Services, Inc., the operator of the on-site septic system, the fact that the Units are only limited from use at present for three months of the year (December, January, and February), that winter use is not the busy season at the Property and in the neighborhood, and that the majority of the Condominium is already permitted year round use and there will be an overall reduction in the number of units and bedrooms on the property as a result of the Board's action in Petition #4560, the Board found that the proposal will not be substantially more detrimental to the neighborhood, Zoning District or Town than existing conditions and that it would not cause or contribute to any undue nuisance, hazard or congestion.

On Motion made by Mr. Igoe, seconded by Mr. Hart, the Board voted unanimously in favor of the Petition as submitted to modify Condition 1 of the prior Special Permit to replace the existing language of the Condition in its entirety with the following: "Units 1A, 1B, 2, 5, and 9 may be used for year round residential use." The further modification of the Special Permit is therefore granted in accordance with the plans presented.

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 By-law §103.2.5, MGL c40A §9)



Steven DeYoung, Chairman