



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

YARMOUTH TOWN CLERK

'14DEC12PM3:26 REC

FILED WITH TOWN CLERK: December 12, 2014

PETITION NO: 4562

HEARING DATE: December 11, 2014

PETITIONER: Michael A. Foreman and Cindy Lee Foreman

PROPERTY: 5 Emerald Avenue, West Yarmouth, MA
Map & parcel: 0022.278
Zoning District: R-25
Book/Page: 18202/ 277

MEMBERS PRESENT AND VOTING: Chairman Steven DeYoung, Sean Igoe, Gerald Garnick, 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.

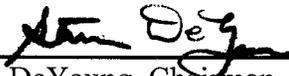
The Petitioner appeared as did Kieran Healy of the BSC Group. The Petitioner was well represented by his legal counsel, Attorney Paul Tardif. The Petitioner seeks a Special Permit pursuant to Zoning Bylaw §104.3.2, in order to raze and replace a pre-existing non-conforming single family dwelling on a pre-existing non-conforming lot. The property is located in the R-25 Zoning District, and contains approximately 7,080 square feet of area. The property is currently improved with a one-story single family dwelling, with 2 bedrooms, and a detached one car garage, which garage sits approximately 6 feet from the rear and easterly sideline. The house encroaches into the westerly side yard setback by approximately 7 feet.

The proposal is to raze the house and replace it with a two story single family dwelling, which will contain 4 bedrooms and 2 ½ baths. The Petitioner submitted a Site Plan dated September 10, 2014 from the BSC Group, which depicts the building envelope for this property. Although the zoning district prescribes setbacks of 30 feet in the front, 15 feet on the sides, and 20 feet to the rear, the front yard setback for this property is reduced to 19.8 feet based on the averaging of the abutting properties, as permitted pursuant to Zoning Bylaw Section 203.3. The resulting dwelling will reduce the degree of encroachment in the westerly side setback to 8.5 feet, and will comply with all of the other bulk requirements of the Bylaw. The height of the new building will be 26.4 feet, and building coverage will increase from 17.6% to 23.7%.

The Board was satisfied that the proposed structure will not be substantially more detrimental to the neighborhood than is the existing structure, based mostly on the fact that the Petitioner is reducing the encroachment on the west side of the property, ever so slightly, and that the design of the structure, as shown on floor and elevation plans dated October 15, 2014 by ERT Architects, Inc., will be an improvement, and will fit with the design and size of the other homes in the neighborhood. The Board also found that there would be no undue nuisance, hazard or congestion arising from this project.

Accordingly, a Motion was made by Mr. Hart, seconded by Mr. Garnick, to grant the Special Permit, as requested. The members voted unanimously in favor of the Motion.

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, the Special Permit shall lapse if a substantial use thereof has not begun within 24 months. (See bylaw §103.2.5, MGL c40A §9)



Steven DeYoung, Chairman