



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: February 16, 2016

PETITION NO: #4628

HEARING DATE: January 14, 2016

PETITIONER: David and Melissa Palmer

**PROPERTY: 33 Crest Circle, West Yarmouth
Map & Lot#: 0022.59; Zoning District: R-25
Book/Page: 28773/207**

MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Sean Igoe, Richard Neitz, and Doug Campbell.

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 David and Melissa Palmer who seek relief in connection with property located at 33 Crest Circle, West Yarmouth, MA, property located in an R-25 Zoning District. Specifically, the Petitioners seek either a Special Permit or Variance to allow the increase in height of an existing structure within the required set-back.

The Petitioner, Mr. Palmer, appeared together with his engineer, Ron Cadillac, and provided a well-thought-out presentation of the relief sought and why it should be affirmatively considered. The Board received two exhibits: a Site Plan and 2 pages with 4 photos of the subject structure. The structure to be increased in height is a windmill like structure that the Petitioners seek to restore and improve, as a component of the overall redevelopment of the site and the structures located there on. The Petitioners' desire to maintain this structure was well received by the Board members as it is reflective of the sort of improvement that adds to the Cape character.

The Petitioners had previously had the proposed site improvements reviewed by the Conservation Commission which issued conditions for its approval due to the proximity to wetlands.

Each of the Board members agree that the project was desirable for the community, would not result in any adversity to the current or future character of the neighborhood or Town, nor would it cause any congestion, nuisance or hazard. There was concern expressed regarding the overall height of the structure when completed and the Petitioner agreed that appropriate limitations would be acceptable. Accordingly, Motion was made by Mr. Igoe, seconded by Mr. Neitz to approve the grant of a Special

Permit as prayed for by the Petition subject to the conditions that: 1. The Petitioners comply with the Order of Conditions of the Conservation Commission; and, 2. The overall height of the “windmill structure” not increase by more than five feet from its current height. The Motion was unanimously voted on in favor and the Special Permit was therefore approved.

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