



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: April 29, 2009

PETITION NO: #4241

HEARING DATE: March 12, and continued to April 23, 2009

PETITIONER: James G. Morrison

**PROPERTY: 23-25 New Hampshire Avenue, West Yarmouth
Map & Parcel: 0016.37; Zoning District: R25
Deed Book & Page #: 22963/138**

MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Diane Moudouris, Joseph Sarnosky, Sean Igoe, Debra Martin, and Richard Neitz, non-voting Alternate.

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 seeks a Special Permit from bylaw §104.3.2, to raze and replace the existing structure with is a lawfully pre-existing non-conforming two-family home on a lot measuring 6,620 sq. ft. and located in the R25 zoning district.

The Petitioner previously obtained relief for significant alterations and renovations of the existing structure (see ZBA Decision dated 11/20/08 – Petition No. 4213). He now proposes to raze and replace the existing structure with a structure similar to that proposed in Petition #4213 and voted favorably upon by the Board. However, to do so, he will need to raze and replace the existing structure and increase the overall height of the new building in order to meet building requirements within the designated flood zone.

The Petitioner provided information from his architect, Eric Tolley, consisting of 3 sheets (floor plans, elevations and section/details) dated 03/23/09 (revised 01/04/09) from ERT Architects, Inc. These plans incorporate changes from those plans from ERT, Inc. dated 10/22/08 which were considered in the grant of Special Permit No. 4213 in that they incorporate the overall building replacement and new elevations necessary to meet the proper flood plain elevation.

The Board had reviewed the previous Decision and, as several members had voted in favor of the prior decision, with no one speaking in opposition to this petition, it was the feeling of the Board that the design and overall building height were compatible with the neighborhood and not more detrimental to it.

Therefore, a motion was made by Ms. Martin, seconded by Mr. Igoe, to grant the Special Permit, to allow the raze and replacement of the existing structure consistent with that as depicted on the Petitioner's submitted plans and on the same conditions as set-forth in Special Permit No. 4213, i.e. that this Special Permit shall be considered to supersede all previous relief, that the new structure to be erected be a two-story, four bedroom (total) duplex residence as shown on the submitted plans and to the elevation limits depicted therein. The members voted unanimously in favor of the petition and it was, therefore, granted.

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