



TOWN OF YARMOUTH  
BOARD OF APPEALS  
DECISION

**FILED WITH TOWN CLERK: August 12, 2016**

**PETITION NO. #4654**

**HEARING DATE: July 28, 2016**

**PETITIONER: Lisa M. Antolini Hales**

**PROPERTY: 33 Sachem Path, West Yarmouth, MA  
Map and Lot #:0023.244; Zoning District: R-25  
Book/Page: 27010/1**

**MEMBERS PRESENT AND VOTING: Steven DeYoung, Sean Igoe, Bob Palmer and Dick Martin.**

It appearing that notice of said hearing has been given by sending notice thereof to the Petitioner and all those owners of property deemed by the Board to be affected thereby, and to the public by posting notice of the hearing and published in The Register, the hearing was opened and held on the date stated above.

The Petitioner is Lisa Antolini Hales who seeks relief in connection with her desire to erect a garage at property located at 33 Sachem Path, West Yarmouth, MA property in a R-25 Zoning District. Though relief in the alternative was requested, the Board felt the appropriate relief was to consider this is a Petition for a Variance.

Prior to any consideration of the merits of the Petition, member Mr. Palmer brought to the Board's attention that the Petitioner's representative, Mr. Tom Nickinello, was appearing on behalf of the intended contractor for the project, TNT Contractors and was an individual whom he knew and with whom he worked in unpaid, public service. Questions were posed to both Mr. Palmer and the Petitioner's representative as to the existence of any matter which would cause either party to feel in conflict. To each question posed, the Petitioner's representative and Mr. Palmer each replied in a manner which, after consideration by the Board, caused all to be convinced that no conflict of interest existed which would negate Mr. Palmer's consideration of the merits of the Petition.

The Petitioner's representative did a fine job in presenting the merits of the Petition. The location of the property in issue is a corner lot fronting on both Sachem Path and Maushop's Path. There currently is a shed located in a position near where the proposed garage is to be erected. The shed is considerably closer to the lot line than the new construction would be. There is no need for front setback relief (which the Board has usually been reluctant to consider). Instead, it is the location to the rear lot line that causes the need for relief. The Board considered the proposal modest and recognized that, particularly as this was a corner lot, it would be difficult to erect this addition at any other location on the lot. The Board did have some concerns about whether the newly constructed garage

would be used for habitable living space, but each member felt that this concern could be incorporated into a condition of any favorable decision that might be voted upon.

No one spoke in opposition to the Petition nor were any exhibits received. Mr. Palmer made a Motion, seconded by Mr. Martin to approve the grant of the Variance, on conditions, due to the factors that 1) literal enforcement of the provisions of the bylaws would involve a substantial financial hardship to the Petitioner; 2) the hardship is owing to the circumstances of the shape of the lot in the existing structures, including the location of the sewage system currently in place; and 3) the relief may be granted without either substantial detriment to the public good or nullifying or substantially derogating from the intention and purposes of these bylaws. The conditions suggested were discussed and incorporated into this Motion, and seconded by Mr. Martin. After due discussion, a vote was made on this Motion to grant the Variance on the conditions that: 1) the Petitioner remove the existing pavement from Sachem Path to the front of the home; and, 2) no portion of the proposed addition/garage is to be utilized as livable/habitable space. This vote was unanimously in favor.

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, a Variance shall lapse if the rights authorized herein are not excised within 12 months. (See MGL c40A §10)

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Steven DeYoung, Chairman