



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: October 14, 2016

PETITION NO: #4665

HEARING DATE: September 22, 2016

PETITIONER: Town of Yarmouth

**PROPERTY: 1377 Bridge Street, South Yarmouth, MA
Map & Lot#: 0061.78.1; Zoning District: B2
Book/Page: 15237/349**

MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Sean Igoe, Bryant Palmer and Dick Neitz.

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.

Members Present and Voting: Richard Neitz, Sean Igoe, Steven DeYoung, Bryant Palmer

The Petitioner, the Town of Yarmouth seeks various relief in connection with property located at 1377 Bridge St., South Yarmouth, MA, property in a B2 Zoning District. The Petition was well presented by Kathy Williams, the Town of Yarmouth Town Planner. Others, including Peter Smith appeared and spoke in favor of the proposed relief sought. No one spoke in opposition to the relief sought. No exhibits were received at the hearing.

The property in question was the subject of the grant of a Special Permit dated March 23, 2006 in the matter of Petition #4025. This prior relief was granted in connection with the desire on the part of the Town to raze and replace an existing nonconforming structure with a new structure intended to house the harbormaster, bathroom space and a public function facility. Unfortunately, the cost of construction of the facility considered in Petition #4025 has been determined to be cost prohibitive and, consequently, the Town seeks to modify the relief so as to proceed with a more modest facility.

The new facility will include a public pavilion with bathrooms and an open air deck on substantially the existing footprint of the prior Cellar House. Current relief from zoning for the property previously granted allows for this use to be municipal whereas the now intended use shall be municipal recreational (Use Table designation N9). To the extent relief is necessary, however, the Board in its final decision approved and granted the intended use.

The new structure is more modest in size. Under the prior relief, relief was granted to within 10 feet of the setback from Allen Street and the new structure shall be no closer. The Petitioner also seeks relief by way of proceeding without installing buffer plantings along Allen Street in front of the facility and deck area. It was explained that there are existing utility services which would run within the buffer area. As well, the existing stone wall which would face Allen Street is attractive and requires no screening.

The Board unanimously concurred that the modified structure will be of benefit to the Town, appears to have all necessary funding in place (save for the cost of the cupola which the Board encouraged the Petitioner to include as per the building renderings submitted) in that relief could be granted without causing any substantial nuisance, hazard nor congestion nor would relief result in any substantial harm to the existing or future character of the neighborhood or Town. Motion was made by Mr. Igoe, seconded by Mr. Palmer to approve the grant of Special Permit on the following conditions: 1) That the Order of Conditions of the Conservation Commission be complied with and be considered as a condition of this grant; 2) That the new structure be built consistent with the renderings provided by the Petitioner inclusive of the landscaping as referenced by the Petitioner and a showing on the renderings; 3) that the requested relief from front and side yard setback requirements together with relief from buffer planting requirements is hereby granted; and 4) That the requested relief under the Use Table be granted; and 5) that if there is to be any alteration or modification of the construction of the pavilion different than as set forth within the renderings, then the Petitioner shall return before the Board for further consideration of such changes.

On this Motion with the stated conditions, the Board voted unanimously in favor and the relief was, therefore, granted.

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