



TOWN OF YARMOUTH  
BOARD OF APPEALS  
DECISION

TOWN OF YARMOUTH CLERK  
17 JAN 25 PM 12:01 2017

**FILED WITH TOWN CLERK: January 26, 2017**

**PETITION NO: #4674**

**HEARING DATE: January 12, 2017**

**PETITIONER: Brian and Christine Richard**

**PROPERTY: 5 Amos Road, West Yarmouth, MA  
Map & Lot#: 0039.182; Zoning District: R-25  
Book/Page: 28870/310**

**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.

The Petitioners, Brian Richard and Christine Richard were well represented in connection with their desire to add in addition to property located at 5 Amos Rd., West Yarmouth, MA property located in an R-25 Zoning District. This matter had come before the Board previously on November 10, 2017 at which time the sitting Board members expressed their great concern for the size of the addition and its substantial planned encroachment into the required setback.

As two Board members sitting on the continued hearing on January 12, 2017 had not attended the previous meeting, both members acknowledged that they had reviewed the videotape of the prior hearing in full and signed an Absent Member Certification pursuant to MGL Chapter 39, §23D. These members were Richard Neitz and Steven DeYoung.

Of note, this modest size lot (8081 ft.<sup>2</sup>) is boarded on three sides by roads, effectively giving it frontage on three sides. The original proposal would have encroached significantly into the side facing Archie Road and by a proposed distance of 14.9 feet.

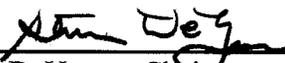
The Petitioner presented a new plan entitled "Proposed Plot Plan, West Yarmouth, MA by Sweetser Engineering and dated 1/10/17. In addition, renderings of the North, South and East Elevations were provided. The new plan called for a smaller Proposed Addition and one that would then be 19.7 feet from Archie Road. In addition, the proposed addition had been substantially reduced in the proposed square footage under the prior submission (plan date

8/19/16). It was represented to the Board that the addition would be utilized as a three season room only.

The Board was generally impressed with the reduction in size and reduction of the nonconformity with the proposed addition. Mindful that the property essentially has three front yards, it's true "front yard" faces Amos Road and the relief sought would not result in any greater nonconformity in terms of the front yard setback at this site. The Board all concurred that it was somewhat unique to see a property surrounded by three roads and that, due to the existing location of the septic system, the modest proposed addition could not be cited elsewhere.

The Board concurred that the appropriate relief was that of Special Permit and that should it be granted the relief would not create any undue nuisance, hazard or congestion nor would there be any substantial harm to the established or future character of the neighborhood or town. Mr. Palmer made a Motion, seconded by Mr. Neitz to approve the grant of a Special Permit consistent with Bylaw §104.3.2 on the conditions that: 1) The addition not be heated; and 2) The room not be utilized as a bedroom. On this Motion, duly seconded, the Board voted unanimously in favor and the Special Permit 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)**

  
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Steven DeYoung, Chairman