



**TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION**

FILED WITH TOWN CLERK: September 20, 2005

PETITION NO. #3976

HEARING DATE: August 25, 2005

PETITIONER: William R. & Eileen Yorns

PROPERTY: 184 South Sea Avenue, Unit #23, West Yarmouth.

MEMBERS PRESENT AND VOTING: David Reid, Chairman, John Richards, Joseph Sarnosky, Sean Igoe, and Stephen DeYoung.

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 seeks a Special Permit to enclose an existing open porch on a single-family seasonal cottage. The cottage is one of 33 buildings located on a single lot in the R25 zone. The cottages were converted from a rental cottage colony to a condominium development. The petitioner's cottage, #23, is non-conforming because of the multiple dwellings on this single lot. The petitioner therefore seeks a Special Permit under bylaw §104.3.2 in order to make the proposed renovation.

The petitioner, at the hearing, filed a revised set of plans (Manchester Cottage #23, 184 South Sea Avenue, West Yarmouth, Sheet 1 of 1, dated 7/2/05 but marked as received by the Board on 9/8/05). These plans are the ones considered by the Board.

The proposal will raise the ridge of the existing porch by 6", to a height of 11' 7 1/2". This will allow it to match the bottom edge of the existing roof line. The new porch will otherwise occupy the same footprint as the existing porch. However, it will have a 3' high kneewall, above the floor of the porch. The petitioner proposes to install a traditional 6' glass slider in the center of the porch, and screen panels on the front and sides of the porch. The porch would be unheated, and the existing exterior wall and windows of the house would remain intact.

The Board finds that this is one of numerous cottages on this site, each of which is individually owned. Several of the cottages have been before the Board, seeking modest additions. The entire site (elevation) is low, and several areas have raised septic systems already. The exact amount of available upland on the site is undetermined, since no formal site plan has been prepared or presented to the board. However, the Board, in the past, has been cautious with this site's development, so as not to have it become a year round residential community, for which it is not well suited. Most additions have been limited to structures such as porches and decks, so as not to increase habitable space.

The Board finds that the requested addition/alteration may be made, without being substantially more detrimental, provided it is carefully limited to, and remains, a seasonal screen porch.

Therefore, a motion was made by Mr. Igoe, seconded by Mr. Richards, to grant the Special Permit, for the porch addition shown on the 9/8/05 (revised) plans, on the following conditions:

- 1) The glass slider be eliminated and replaced with only a traditional screen door of approximately 3' in width,
- 2) The porch may have the 3' kneewall on three sides, but the only thing that may be installed above the 3' kneewall is screening (except for the corner support members holding up the roof). There are to be no areas of solid wall or cedar shingled walls above the 3' level, nor may any areas incorporate other enclosures such as storm or combination window units,
- 3) A set of revised plans, conforming to this decision, shall be filed with and approved of by the Board prior to the issuance of a building permit.

The Board members voted unanimously in favor of the motion, the Special Permit is 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)

David S. Reid, Clerk

FILED WITH TOWN CLERK: September 20, 2005

PETITION NO. #3977

HEARING DATE: August 25, 2005

PETITIONER: Ronald E. & Patricia A. Ricci

PROPERTY: 56 Seaview Avenue South Yarmouth

MEMBERS PRESENT AND VOTING: David Reid, Chairman, John Richards, Joseph Sarnosky, Diane Moudouris, Sean Igoe, and Stephen DeYoung, alternate.

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 seeks a Special Permit to convert an existing two-family home into a 2-unit condominium, pursuant to bylaw §104.4.

The site consists of a lot with 18,129 square feet of land. There exists on the lot a two-family residence. The petitioner represents that the duplex was a lawfully pre-existing two-family structure, although the precise date of its construction was not verified. The petitioner had presented evidence and assessors records to the Building Commissioner, and received from him a written determination that it was a lawfully pre-existing non-conforming two-family dwelling, available to be occupied on a year round basis. On this basis, no change of use is proposed, and no enlargement of the living quarters is now proposed. The deck and doorways will be altered to meet access codes and requirements.

No one spoke in opposition to the proposal. The Board finds that the condominium documents satisfy the management control and use requirements of the bylaw. Each unit is now, and will remain a two bedroom unit. The Board requested, and the petitioner agreed to add to the Master Deed, reference to the Board's decision so that future owners are aware of the need to comply with it, as well as the internal condominium documents.

Therefore, a motion was made by Mr. Richards, seconded by Mr. Sarnosky, to grant the Special Permit, as requested. The petitioner will file revised condominium documents with the Board prior to the issuance of any building permits. The members voted unanimously in favor of the motion and the Special Permit is 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)

David S. Reid, Clerk