



TOWN OF YARMOUTH  
BOARD OF APPEALS  
DECISION

**FILED WITH TOWN CLERK: February 26, 2019**

**PETITION NO: #4788**

**HEARING DATE: February 14, 2019**

**PETITIONER: James W. Baker, Jr.**

**PROPERTY: 62 Beacon Street  
South Yarmouth, MA 02664**

**MEMBERS PRESENT AND VOTING: Steven S. DeYoung, Chairman, Sean Igoe, Dick Martin, Thomas Nickinello and Tom Baron.**

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, James Baker, appeared on his own behalf. The Petitioner seeks to expand his existing dwelling located at 62 Beacon Street, South Yarmouth, MA, property located in an R-40 Zoning District. The expansion will cause the footprint of the building to move further into the front yard setback and the sideline setback on the westerly portion of the lot. It will consist of a porch to be added on their front yard setback which will be, if constructed, 24.7 feet from the front yard line. On the sideline, the addition of a proposed garage space will result in a sideline distance of 18.9 feet from the abutting lot.

The Board expressed that its usual response to a request for greater encroachment into the front yard setback is generally denied. It was noted, however, that in this case the visual enhancement of the property would be a benefit to both the character of the neighborhood and Town as it now exists and will exist in the future. The direct abutter most affected by the garage addition, Ms. Linda Cipro, wrote a compelling letter indicating that she had no opposition. The same is true of other interested parties inclusive of Mr. Stephen Kenny and Ms. Jessica Blake. The Board considered that not only will the proposed additions cause the property to be more functional, it will also improve the aesthetics of the current structure. The Board found no undue nuisance, hazard or congestion would occur as a result of the grant of a Special Permit nor with the character of the neighborhood or Town, both at present and in the future be adversely affected nor would any substantial hardship result. The Board members were consistent in recognizing that the

grant of relief on front yard setback was unique to the circumstance of this project and, because of the visual enhancement that will result, is not contrary to the Board's usual reluctance to grant front yard setback relief.

As the Board concluded that the relief could be granted by Special Permit and due to the Petitioner's request for relief in the alternate of Special Permit/Variance, a Motion was made by Mr. Martin, seconded by Mr. Baron to grant the Special Permit sought by the Petitioner on the condition that the Variance request would be withdrawn without prejudice, a condition that the Petitioner readily accepted. Upon this Motion and on the stated condition, the vote of the Board was unanimous 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 S. DeYoung, Chairman