



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: June 21, 2019

PETITION NO: #4806

HEARING DATE: May 23, 2019

PETITIONER: Joseph T. Alouise and Margaret T. Alouise

**PROPERTY: 18 Snow Brook Road, West Yarmouth, MA
Map & lot#: 0058.123; Zoning District: R-40**

MEMBERS PRESENT AND VOTING: Steven S. DeYoung, Chairman, Dick Martin, Thomas Nickinello, Doug Campbell 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 is Joseph T. Alouise who presents his Petition in connection with property located at 18 Snow Brook Road, West Yarmouth, MA property located in the Zoning District R-40. The Petition seeks the grant of a Special Permit under By-Law §104.3.2 (2) or, in the alternative, a Variance to allow for the construction of an addition encroaching into a required setback. The Petition was well presented. A memo from Amy von Hone, Assistant Health Director, was read as was a letter of objection by John McHale dated May 22, 2019. The existing structure currently encroaches into the side setback at 18.6 feet. The proposed addition will result in an encroachment into the westerly side setback at a distance of 15.5 feet from the abutting property line. The proposed addition will include a bathroom and a very modest sized study area.

As the overhang over the existing front entryway is merely to protect against the elements, it was of little concern to the Board's deliberations. The comments set forth in the letter of opposition by Mr. McHale did echo some of the concerns of the Board most particularly that the study not become an additional bedroom. This was the same concern of the Board of Health as the current septic components restrict the property to only 2 bedrooms.

In order to accommodate these concerns and considering the merits of the Petition, the Board discussed that the opening from the existing bedroom to the study be expanded to 4 feet with either French doors or bi-fold doors being installed. Relative to the concerns of Mr. McHale about

business being conducted within the office generating additional traffic, the use of the home relative to business is restricted, in part, by the town's By-Laws. Moreover, the Board was emphatic that a condition that the study area not be utilized as a bedroom would be imposed.

A Motion was made by Mr. Martin, seconded by Mr. Nickinello to grant the Special Permit on the conditions that 1.) The opening between the study and what has been designated by the plan submitted by the Petitioner as Bedroom # 2 be separated by at least a 4 foot opening with French doors/bi-fold doors; and 2.) That, under no circumstance, shall be study be used as a bedroom. On this Motion, the Board voted unanimously in favor and, therefore, the Special Permit was 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 S. DeYoung, Chairman