

**TOWN OF YARMOUTH
PLANNING BOARD
DECISION**

YARMOUTH TOWN CLERK

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FILED WITH TOWN CLERK: September 11, 2015

PETITION: #112

HEARING DATE: August 19, 2015 (continued to September 2, 2015)

PETITIONER: Michael A. Healy, DBA Kim Holdings, LLC

OWNER: Kim Holdings, LLC, 72 Old Main Street, South Yarmouth, MA 02664

PROPERTY: 5 Appleby Road, West Yarmouth (formerly Seagull Beach Motel)
Assessor's Map 32, Lot 154. Zoning District B2 & Hotel Motel Overlay
District 1 (HMOD1)

MEMBERS PRESENT AND VOTING: Brad Goodwin, Thomas Roche, Chris Vincent, Norman Weare, and Angela Philbrook.

Notice of the hearing having been given by sending notice thereof to the petitioner and to all those owners of property, as required by law, and notice of the hearing to the public having been given by posting said notice with the Town Clerk and by publishing in *The Register* newspaper, the hearing was opened and held on the dates stated above.

PROJECT SUMMARY:

Michael A. Healy (DBA Kim Holdings, LLC) is seeking modification of Planning Board Special Permit Petition 110 under Zoning Bylaw Section 404 and Section 203.5 to allow for construction of a porch within the front yard setback for the previously approved conversion of the former Seagull Beach Motel to multi-family housing. The property is now known as Appleby Court Apartments and is located at 5 Appleby Road in West Yarmouth, Assessor Map 32, Parcel 154, Zoning District B2 and HMOD1.

The original plans called for a small porch on the east side of the building to cover the entrance in the southeast corner of the portion of the building facing Route 28. The applicant proposes a larger farmers style porch that will cover the entrances to both doors on the east side of the building. Relief is needed as the farmers porch encroaches into the front yard setback from Route 28, resulting in a 16.6' setback rather than the 25' front yard setback allowed for corner lots in the B2 zoning district as approved at the 2015 Annual Town Meeting.

PLANS SUBMITTED AND MADE PART OF THIS DECISION:

1. Site Plan – Prepared for Kim Holdings, LLC by BSC Group of 349 Route 28, Unit D, West Yarmouth MA and entitled "Site Plan Appleby Court Apartments, 5 Appleby Road in West Yarmouth Massachusetts (Barnstable County) Proposed Porch", dated November 5, 2012 with the latest revision date of July 15, 2015.

2. Two Architectural Plans - All prepared for Kim Holdings, LLC by Kieran J. Healy and all with a main title of "*Floor Plans Appleby Court Apartments, 5 Appleby Road in West Yarmouth Massachusetts (Barnstable County)*":
 - a. **Sheet 1 of 2 - Proposed Conditions**, dated November 5, 2012 with the latest revision date of July 15, 2015. This plan shows As-Built Floor Layout and proposed Porch Detail.
 - b. **Sheet 2 of 2 - Proposed Porch**, dated July 15, 2015. This plan shows former Elevations and As-Built Elevations with proposed porch.

DISCUSSION:

Kieran Healy of BSC Group, representing his brother Michael Healy, gave a brief presentation on the proposed enlarged porch with concrete pad. Approval had been received previously for a smaller porch over one door. Now that the hip roof on the building facing Route 28 has been completed, it was felt that a larger porch to cover both entrance doors would help break up the lines of the building. However, this would result in a portion of the porch being located within the front yard setback of Route 28.

The Planning Board members had little to no comment and were complimentary of the project completed to date.

FINDINGS:

The Planning Board is able to give relief per Section 404.1.3 of the Zoning Bylaw.

The Board has reviewed the proposed plans with respect to the general criteria set forth in Bylaw Section 103.2.2 and finds that no undue nuisance, hazard, or congestion will be created by the granting of the requested Special Permit and that there will be no harm to the established or future character of the neighborhood or town. The Planning Board reached this determination and allowed the requested relief from the Zoning Bylaw given by this Decision based on the following:

- The proposed enlarged porch will improve and enhance the Route 28 streetscape.
- The enlarged porch will provide cover for both side entrances.
- The porch breaks down the building height and adds a pedestrian element to the building.

Finally, the Board also acknowledges that all cases are decided on their own specific facts, and granting the relief outlined in this Decision does not assure future applicants of similar outcomes.


VOTE: For these reasons and on a motion made by Chris Vincent and seconded by Brad Goodwin the Board voted (5-0) unanimously to grant the applicant relief with conditions, as follows, with Brad Goodwin, Tom Roche, Chris Vincent, Norm Weare and Angela Philbrook voting in favor.

RELIEF GRANTED FROM SECTION 203.5 AND CONDITIONS FOR APPROVAL:

Relief is granted from Section 203.5 – Table of Dimensional Requirements, to allow the construction of a porch with the front yard setback at 16.6' rather than the required 25' setback for corner lots in the B2 zoning district, with the following conditions:

1. There shall be no visible pressure treated wood. All pressure treated posts to be wrapped with Azek or equal material, and that the railings and spindles may not be pressure treated.

No permit shall be issued until 20 days after the date of filing this decision with the Town Clerk of Yarmouth. Appeals from this decision shall be made pursuant to M.G.L., ch. 40A, §17 and must be filed within 20 days after filing of this notice/decision with the Town Clerk. This decision must be recorded at the Registry of Deeds and a copy forwarded to the Planning Board.



Norman Weare, Chairman
Yarmouth Planning Board