



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: September 3, 2010

PETITION NO: #4315

HEARING DATE: August 26, 2010

**PETITIONER: E.F. Winslow IV & Stephen A. Winslow, dba, E.F. Winslow
Plumbing & Heating**

**PROPERTY: 21 Fruean Avenue, Unit D, South Yarmouth, MA
Map & Parcel: 0087.23; Zoning District: B3
Book & Page: 22583/51**

MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Sean Igoe, Diane Moudouris, Richard Neitz, Bryant Palmer and Robert Howard, Alternate.

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 E.F. Winslow IV and Stephen A. Winslow on behalf of E.F. Winslow Plumbing and Heating, Inc.

The Petitioners seek a Special Permit under Zoning By-law §406 in connection with property located at 21 Fruean Avenue, which property is located in the B-3 Zoning District. As the Petitioners' use of the premises will include the storage of hazardous materials in amounts greater than that generally found in an average household and due to the location of the property in the Aquifer Protection District (APD), the Petitioners need relief in order to utilize their property for trucking and warehousing of plumbing and electrical supplies. Stephen Winslow appeared on behalf of the Petitioners. No one appeared in opposition to the petition. No exhibits were received at hearing.

The Board did have the memorandum from Bruce G. Murphy on behalf of the Board of Health. Mr. Murphy confirmed the representations of the Petitioners, i.e. that the business operation would pose little risk to the APD as (1) most materials are kept in small quantities and in separate containers; and, (2) the materials are primarily used off-site.

The Petitioners have been, over time, responsible members of the community, running a quality business of benefit to the Town. The Board felt that the grant of the relief sought would not create any nuisance or substantial risk or hazard or congestion nor would there be any substantial harm to the neighborhood or Town.

Accordingly, on Motion made by Mr. Igoe, seconded by Mr. Neitz, it was unanimously voted to approve the grant of Special Permit to change the use of the building at Petitioners' site to that of

trucking and warehousing of plumbing and electrical supplies with the condition that the Petitioners are to be in compliance with all requirements of the Board of Health including spill containment, secondary containment for hazardous materials and all spill containment required items to be at the premises at all times.

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 §103.2.5, MGL c40A §9)

Steven DeYoung, Chairman