



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: May 5, 2011

PETITION NO: #4336

HEARING DATE: March 24, 2011 & April 28, 2011

PETITIONER: Stop & Shop Companies, Inc.

OWNER: Ahold Lease U.S.A., Inc.,

**PROPERTY: 55 Long Pond Drive, South Yarmouth
Map & Parcel: 0050.1; Zoning District: R40
Document #: 825,040; Certificate #: 16073**

MEMBERS PRESENT AND VOTING: Diane Moudouris, Chairman, Jose Sarnosky, Richard Neitz, Robert Howard, Bryant Palmer and Steven DeYoung, 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 the Stop & Shop Companies, Inc. (owner is: Ahold Lease U.S.A., Inc.) which seeks a Special Permit from Zoning Bylaw §303.13; 303.5.5.2 and 303.5.5.3 in connection with proposed new signage at its current location of 55 Long Pond Drive, South Yarmouth, Massachusetts, property located in an R-40 Zoning District.

This property has the benefit of a variance previously granted by the Board on 3/31/92 for signage beyond what was allowable. Since that time, the Town has enacted zoning changes which allow the petitioner to seek a Special Permit instead of a Variance for the relief being sought. The Petitioner now seeks new relief in the form of a special permit for new signage in lieu of that granted by the '92 variance, which was never installed. The proposed changes between the originally approved signage and that which is now being requested, would modernize the petitioner's signs in keeping with the company's current branding.

The original hearing proceeded on 03/24/11 with various concerns being expressed by the board members. Upon the petitioner's request, the meeting was continued to 4/28/11. Member, Steven DeYoung, who did not attend the original hearing, attended the 04/28/11 meeting as a non-voting alternate after filing his certification that the video of the prior meeting had been reviewed.

After discussions at both hearings, the Petitioner accommodated the Board's dislike of the signage containing the terms "low prices" and "great food" by removing those signs from their petition. By doing so, the relief needed pertaining to the length of signage was no longer necessary as the proposed remaining signage would comply with the by-law in overall length.

Several members raised concerns regarding the wording of the proposed signage and those terms of a descriptive nature on four (4) proposed “department” signs. Generally, the Board felt that, while not the most appropriate descriptive phrases, it was fundamentally the Petitioner’s choice to utilize the words they deemed fit for their business, *if* in keeping with the criteria set forth in the By-law for a special permit. Also noted was that the prior variance relief granted, already allowed for similar phrasing. Mr. Howard was opposed to these descriptive references generally and spoke passionately about his concerns. All members agreed that inclusion of “Citizen’s Bank” was appropriate.

Motion was made by Mr. Palmer, seconded by Mr. Neitz, to grant relief pursuant to Zoning Bylaw §303.13 and for relief from §303.5.5.2 and §303.5.5.3 to allow the signage sought by the Petitioner and as shown in the depiction by Agnoli Sign Co., (revised 04/29/11), and inclusive of the department signage listed, the Citizen’s Bank sign and the Stop & Shop & logo signs, but without the signage containing the terms “low prices” and “great food”, which the Petitioner voluntarily withdrew from consideration. This Motion incorporated the following conditions:

1. That Petitioner will file a new plan depicting the exact signs approved, removing those withdrawn from the request and incorporating clear identification of logo colors, and exact location of signs as directed in condition #3.
2. That the interior “Citizen’s Bank” window sign be removed once the new exterior sign is affixed; and,
3. That the signs be affixed with adherence to the structure’s existing architectural design, with all “department” signs and the Citizen’s Bank sign to be placed on the trim board as shown on the depiction and the “Stop & Shop” sign with logo to be placed between the lower and upper trim boards as is the existing sign.

After discussion on the Motion, it was voted 4 to 1 to approve the petition with the stated conditions, since those members voting affirmatively believed that the criteria for a Special Permit was met.

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)

Diane Moudouris, Chairman