



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: May 25, 2012

PETITION NO: #4395

HEARING DATE: May 10, 2012

**PETITIONER: Town of Yarmouth, Department of Public Works,
Cemetery Division**

**PROPERTY: 161 Old Mill Way, West Yarmouth, MA
Map & Parcel: 0064.1; Zoning District: R-40
Book & Page: 1603/023**

**MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Joseph Sarnosky,
Debra Martin, Bryant Palmer and Robert Howard.**

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 Town of Yarmouth, Department of Public Works, Cemetery Division, which seeks a Special Permit pursuant to By-law §104.3.2 in connection with the construction of a 40' x 60' steel building on cemetery property located at 161 Old Mill Way, West Yarmouth, MA property located in an R-40 Zoning District. The proposed storage facility is intended for the purpose of centralizing and storing Cemetery Division equipment inclusive of heavy equipment. A very well-thought out presentation was offered by the Director of Cemeteries, Ms. Audrey Rano and the Assistant Director of Public Works, Mr. James Lefter.

An interested abutter, Mr. Richard Brady, 70 Benjamin Way, also appeared and spoke.

The Petitioner's representatives indicated that a closed storage facility was necessary to protect against vandalism and theft of municipal property and to centralize storage of equipment at the site rather than as currently stored at varying locations throughout the Town. The building will allow for more efficient use of the equipment while enabling the Yarmouth Police Department to effectively patrol and monitor the equipment.

Mr. Brady spoke persuasively as to his desire to see the building be moved back further from Old Mill Way and the Petitioner's representatives said that this concern could be accommodated. Screening of the structure was an issue of concern to several Board members.

Finding that the relief could be granted without the creation of undue nuisance, hazard or congestion and that no substantial harm to the established or future character of the neighborhood or Town would occur by the grant of relief, the Board voted unanimously in favor of the Motion made by Ms. Martin, seconded by Mr. Howard to grant the Special Permit as sought by the Petition on the following conditions:

- 1) That the building be constructed at a point approximately 20 feet to the West of the proposed location as shown on the Petitioner's submission (and, thus, 20 feet further from Old Mill Way than originally contemplated).
- 2) That arborvitaes or other similar plantings be installed along the Easterly Side of the building to provide screening/softening of the view at the structure from Old Mill Way; and
- 3) That a landscape plan be filed with the Board to be made part of the file on this Petition.

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 DeYoung, Chairman