



TOWN OF YARMOUTH  
BOARD OF APPEALS  
DECISION

**FILED WITH TOWN CLERK: February 18, 2009**

**PETITION NO. #4227**

**HEARING DATE: January 8, 2009 con't to February 12, 2009**

**PETITIONER: Linear Retail Yarmouth #1 LLC**

**PROPERTY: 484 Station Avenue, South Yarmouth  
Map and Parcel: 0097.22; Zoning District: B1  
Registry of Deeds Doc: 1,029,687 Cert#179615**

**MEMBERS PRESENT AND VOTING: Diane Moudouris, Chairman, Joseph Sarnosky, Debra Martin, Steven DeYoung, John Richards.**

It appearing that notice of said hearing has been given by sending notice thereof to the petitioner and all those owners of property deemed by the Board to be affected thereby, and to the public by posting notice of the hearing and published in The Register, the hearing was opened and held on the date stated above.

The applicant seeks a sign Variance from bylaw §303.4.5.2 to remove the existing free-standing sign and replace it with a larger free-standing (39.22 sq. ft.) business center sign at the entrance to the property, where only 18 sq. ft is allowed. The property is located in the B1 zoning district. The property contains a number of different businesses. The current conforming free-standing is occupied by only one business.

The new proposed sign will allow space/slats for four of the tenants in the Business Center, however they would like the flexibility in the number of spaces/slats without returning to the Board, so long as the overall sign area is not increased. The petitioner maintains that the size of the building and its location on the lot are unique and that a literal enforcement of the bylaw involves a substantial hardship to the property owner and the community. The front section of the large building is set back nearly 275 feet from Station Avenue behind the parking lot. The rear "jogged" section of the building is set back nearly 320 sq. ft. from Station Avenue and located behind another building on a neighboring property fronting on Station Avenue that visually blocks much of the sites building and many of its constituent businesses. The petitioner maintains that having a larger sign is important, not only for aesthetic reasons relative to the size of the site and the buildings(s) thereon, but also for public safety and economic reason to safely and adequately inform the public not only where a particular business is in the center, but also what type of business it is and how to best access it. The applicant submits that there will not be any detriment to the public good, and that the request is not a substantial derogation from the overall intent of the bylaw.

One tenant of the plaza spoke in favor the request. He has experienced difficulty by customers not knowing that he is located in the plaza. It will help his business to be able to have a sign on Station Avenue.

The Board discussed the petitioner's request. The majority of the members felt that the criteria were not met. Members felt that the size requested was far larger than allowable, almost 3 times larger, and therefore it could not be justified. The Board has denied many other businesses requesting larger signs in business centers in the past, and to give a Variance for this site would be setting precedence. It was mentioned that a new sign code was being prepared for the next town meeting and that there would be some relief for business centers in that new bylaw. The members agreed that 18 sq. ft. is too small for business centers, that this is a very large site and a larger sign is warranted, but the requested relief did not meet the criteria in order to grant a Variance.

The petitioner therefore asked the board to withdraw without prejudice their application, in order to seek other alternatives and or a new bylaw is approved that will allow a larger sign by right.

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Diane Moudouris, Acting Chairman