



TOWN OF YARMOUTH  
BOARD OF APPEALS  
DECISION

**FILED WITH TOWN CLERK: June 27, 2016**

**PETITION NO. #4646**

**HEARING DATE: June 9, 2016**

**PETITIONER: Rebecca A. Bunce, d/b/a Soul Jam**

**PROPERTY: 943 West Yarmouth Road, YarmouthPort  
Map and Lot #:0115.20; Zoning District: R-40  
Book & Page: 11192/179**

**MEMBERS PRESENT AND VOTING: Steven DeYoung, Jerry Garnick, Bob Palmer and Richard Neitz.**

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 Petitioner is Rebecca A. Bunce who conducts a business known as "Soul Jam". The Petitioner seeks to obtain a Variance so as to be allowed to cook and can jelly and jam for sale at various farmers markets throughout the Cape area. She seeks to do this within property located at 943 West Yarmouth Rd., Yarmouth Port, MA, property in an R-40 Zoning District. As this is a commercial endeavor, it is not permitted in a residential zoning district except by Variance. The Petitioner is the daughter of the property owner and lives at this address. The Petitioner became aware of the need for a Variance after obtaining her Food Establishment License from the Board of Health. The Petitioner presented the Petition and no one spoke in opposition to the Petition. No exhibits were received.

The Board had substantial discussion about concerns over allowing commercial endeavors in a residential zoning district. A similar, low-impact commercial endeavor had been previously considered with a Variance granted in connection with the baking of products for sale at the farmers' market. Each of the Board members concurred that it is imperative that the issue of home-based businesses be clearly defined by future zoning amendment.

The Petitioner explained that her business is small in scale and it would not be possible to conduct this operation in a commercial space as it would create a financial hardship and assure that the endeavor would not be financially successful. In considering this specific Petition, the Board was mindful of the limited season available to the Petitioner to conduct this business, that there will be no employees, that there will be no signage nor commercial deliveries and that there will be no sales or customers at the site. The Board concluded that literal enforcement of the provisions of the zoning bylaw would involve a substantial financial hardship to this Petitioner, that the hardship was owing to the location of the property in a residential zoning district and that the relief would be granted without resulting in

either substantial detriment to the public good or nullifying or substantially derogating the intent or purpose of the bylaw.

Motion was made by Mr. Garnick, seconded by Mr. Palmer to grant the Petition on the following conditions:

1. The relief granted is to this Petitioner only and should she cease to be directly involved in the cooking of jellies and jams this relief is voided;
2. The Petitioner is the only one to be engaged in this business and she is to have no employees;
3. The Petitioner is not to have any signage relating to her business nor our commercial deliveries relating to this business permitted; and
4. The Petitioner is not to conduct any sales at this location nor have customers at this site.

With these conditions, the Board voted unanimously in favor of the grant of the Variance.

No permit shall issue until 20 days from the filing of this decision with the Town Clerk. 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, a Variance shall lapse if the rights authorized herein are not excised within 12 months. (See MGL c40A §10)

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Steven DeYoung, Chairman