

TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: July 12, 2007

PETITION NO. #4112

HEARING DATE: May 10, 2007 & June 28, 2007

PETITIONER: JD Daddario/Fergusson

**PROPERTY: 760 Route 28, South Yarmouth
Map and Parcel: 0033.36.1; Zoning District: B2**

MEMBERS PRESENT AND VOTING: David S. Reid, Chairman, (not present at the May 10, 2007 hearing) John Richards, Joseph Sarnosky, Diane Moudouris, Sean Igoe, and Renie Hamman, Alternate.

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.

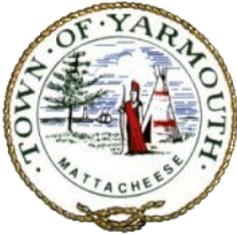
The petitioner seeks a Variance from §303.4.6 of the sign bylaw (sign code) in order to allow an existing sign to be maintained, without conforming to the zoning bylaw. The site is located within the B2 zone. The lot contains 43,563 square feet of area, and an existing commercial building.

The petitioner's business is new at this location. The proposed sign received appropriate permits from the Building Department. However, the sign, as constructed and installed, does not conform to its permit or the code.

After an extensive hearing, the matter was continued for further hearing. Before the commencement of the second hearing, the petitioner requested to withdraw its application.

No one appearing in opposition, a motion was made by Mrs. Moudouris, seconded by Mr. Richards, to grant the petitioner's request to withdraw its petition without prejudice. The members voted unanimously in favor of the motion.

David S. Reid, Clerk



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: July 12, 2007

PETITION NO: #4124

HEARING DATE: June 28, 2007

PETITIONER: Maureen Carser & Suzane Bazner

PROPERTY: 285 Old Main Street, South Yarmouth
Map & Parcel: 0060.219 Zoning District: RS40

MEMBERS PRESENT AND VOTING: David S. Reid, Chairman, Joseph Sarnosky, Diane Moudouris, Sean Igoe, and Renie Hamman.

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 seeks a Special Permit, per bylaw §104.3.2(3), in order to demolish and reconstruct a 16' x 18' detached storage building. The existing and proposed structures are uninhabitable buildings, accessory to the petitioners' single-family home on the same lot.

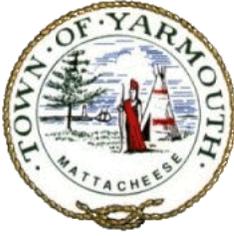
The property is located in the RS40 zone. The lot contains approximately .34 acres, and is improved with a single-family home and two detached structures. The structure in question is in a state of gross disrepair. It is very old, perhaps in excess of 100 years. The petitioner proposes to replace it, on the same footprint, with a substantially similar looking structure. The new structure will not be any taller or bigger than the existing. It will be designed to approximately replicate its historic design and features. It will remain an uninhabitable, unheated out-building to be used solely as an accessory building for the residence.

The Board received no opposition to the request, but did receive two letters of support from neighbors. The Board finds that the historical replication effort is deserving of some additional latitude and consideration, as this feature helps preserve the unique historical attributes of this district and neighborhood. The Board finds that the replication proposed will not be more non-conforming, or more detrimental to the neighborhood. The Board also finds that full compliance is not feasible given the other existing improvements and features of the site.

Therefore, a motion was made by Mr. Igoe, seconded by Mrs. Moudouris, to grant the Special Permit, as requested. The members voted unanimously in favor of the motion, the Special Permit is granted.

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, the Special Permit shall lapse if a substantial use thereof has not begun within 24 months. (See bylaw §103.2.5, MGL c40A §9)

David S. Reid, Clerk



**TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION**

FILED WITH TOWN CLERK: July 12, 2007

PETITION: #4123

HEARING DATE: June 28, 2007

PETITIONER: Donna Dewey-Dog Day Care, Institute

**PROPERTY: 35 & 41 Industrial Park Road, West Yarmouth
Map and Parcel: 0074.13; Zoning District: B3-APD**

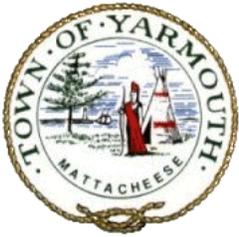
MEMBERS OF THE BOARD PRESENT AND VOTING: David S. Reid, Chairman, Joseph Sarnosky, John Richards, Sean Igoe, Diane Moudouris and Renie Hamman, Alternate.

It appearing that notice of the hearing has been given by sending notice to the petitioners and all of those owners of property deemed 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 Special Permit from bylaw §202.5, for the addition of overnight boarding of dogs.

Prior to the commencement of a hearing on the merits, the petitioner requested of the Board leave to withdraw this petition, without prejudice. The petitioner expressed concern that the proposal would not satisfy Board of Health septic system standards, and therefore elects not to go forward. Since no objection to the request was made, a motion was made by Mrs. Moudouris, seconded by Mr. Sarnosky, to allow the petition to be withdrawn, without prejudice. The Board members voted unanimously in favor. The petition was withdrawn without prejudice.

David S. Reid, Clerk
Board of Appeals



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: July 12, 2007

PETITION NO. #4122

HEARING DATE: June 28, 2007

PETITIONER: United Parcel Service

**PROPERTY: 131 Ansel Hallet Road, West Yarmouth
Map and Parcel: 0083.12; Zoning District: B3**

MEMBERS PRESENT AND VOTING: David S. Reid, Chairman, John Richards, Joseph Sarnosky, Diane Moudouris, Sean Igoe and Renie Hamman, Alternate.

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 requests a Variance from the sign code, to allow the replacement of all existing signs at this site with new signs, several of which will be non-conforming. The property is in the B3 zone, and contains approximately 6.15 acres of land. It is improved with a very large warehouse type building, used to process and dispatch the petitioner's vehicles and their parcels/products.

The petitioner represents that their site currently has 9 signs on the site, containing a total of 84 square feet of sign area. The proposal is to replace them with 6 signs, totaling 38 square feet of sign area. The present and proposed signs are shown on photographic representations, submitted by the applicant. Relief would be need for the proposed signs as follows:

- 1) The UPS Shield sign (so called), of which there are two (2), will be more than the permitted 2' in height. Each would be 4' tall, but only 40" wide. Attached signs of this sort are permitted to be up to 60 square feet in area.
- 2) The two (2) UPS Shield signs will be on adjoining walls, not on opposite walls, as the bylaw provides. However, they will be on opposite corners of the building, and will be a considerable distance away from each other.
- 3) There will be a second attached sign on the easterly facing wall, referred to as the "Customer Center" sign. It would be conforming, as to size, where it's the only sign on that wall, but will in fact be on the same wall as one of the attached UPS Shield signs. However, the petitioner points out, that the combined size of these two signs is still well below the permissible size of a single attached sign.

Notwithstanding the information set forth in some of the renderings, these will not be internally illuminated signs. They will be spread out over a very large building, and will not be very visible, given the line-of-site circumstances from the adjoining roads. There are virtually no nearby neighbors who will be able to see or be affected by these signs, as the building is in a rather discrete location, given its size.

The Board finds that there will be a substantial net reduction in signage if this proposal is allowed. The proposed signs are each, and collectively, less massive or visible than would be allowed of right. The collective effect and impact would not derogate from the intent and purpose of the bylaw, and would pose no detriment to the neighbors or public. This is one of the largest buildings in the entire town, with less total signage than many smaller businesses. On balance the Board finds the proposal to be beneficial to the goals and objectives of the sign code.

Accordingly, a motion was made by Mr. Richards, seconded by Mr. Igoe, to grant so much of the petition as requests;

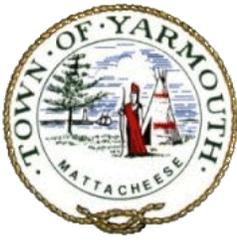
- a) A Variance to add the UPS Shield signs (2 of them) to measure 40" x 48", and to be attached as proposed,
- b) A Variance to allow its second "Customer Center" wall sign to be attached to the easterly end wall, as proposed, as a second attached sign on that wall,
- c) To allow the two (2) UPS Shield sign to be attached to adjoining walls, as proposed.

These variances are granted on the condition that they not be internally illuminated signs, as represented in the hearing, and that these signs are installed in replacement of all existing signs, as proposed.

The members voted unanimously in favor of the motion. The variances are therefore granted.

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 exercised within 12 months. (See MGL c40A §10)

David S. Reid, Clerk



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: July 12, 2007

PETITION NO: #4121

HEARING DATE: June 28, 2007

PETITIONER: Lester R. Allen, III & John J. Silva

**PROPERTY: 245-247 Old Town House Road, South Yarmouth
Map & Parcel: 0086.18 Zoning District: R40**

MEMBERS PRESENT AND VOTING: David S. Reid, Chairman, Joseph Sarnosky, John Richards, Diane Moudouris, Sean Igoe, and Renie Hamman, 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 requests a Special Permit per §104.4, in order to convert an existing residential duplex into Condominium ownership. The site is located within the R40 zone and the lot contains 9,757 square feet of area. The site is improved with an existing two (2) family structure.

The petitioner's propose no change of use or physical alteration of the structure. The dwellings are currently year-round residential rental units, and no change of use is requested. The proposed Condominium documents have been submitted. The Board finds that they make adequate provisions for the preservation and maintenance of the essential features including the shared septic system. They accurately define the use and appropriately reference the bylaw and anticipated Special Permit.

Accordingly, a motion was made by Mr. Richards, seconded by Mr. Sarnosky, to grant the Special Permit as requested. The members voted unanimously in favor of the motion and the Special Permit is granted.

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, the Special Permit shall lapse if a substantial use thereof has not begun within 24 months. (See bylaw §103.2.5, MGL c40A §9)

David S. Reid, Clerk