



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: February 28, 2019

PETITION NO: #4791

HEARING DATE: February 14, 2019

PETITIONER: Baskin's Hardware, Inc.

**PROPERTY: 23-K White's Path, South Yarmouth, MA
Map & lot#: 0097.21; Zoning District: B1 & APD
Doc. #:1,026,939; Ctf#:C242-A14**

MEMBERS PRESENT AND VOTING: Steven DeYoung, Chairman, Sean Igoe, Dick Martin, Thomas Nickinello and Tom Baron.

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 Baskin's Hardware, Inc. and was well represented by Ms. Lynn Colangione, in connection with Baskin's desire to seek a Special Permit consistent with By-Law §202.5 and §406.5 and relating to a well-established business location at 23 White's Path, South Yarmouth, MA, property in a B-1 and APD Zoning District. The business operated by the Petitioner is located within Units I and J within the plaza that comprises 23 White's Path, South Yarmouth, MA. The Petitioner seeks to expand its business into an abiding unit identified as Unit K. Its purpose for expansion is to expand its paint offerings which will be located within Unit K. As it is located within the APD and the expansion will include an increase in toxic or hazardous materials inclusive of paints and wood stains, the Petitioner requires relief from this Board. The increase in toxic or hazardous materials would, if the Special Permit is granted, allow for an increase of 1500 gallons of materials.

The expansion of use was reviewed by the Board of Health and its Hazard Waste Inspector, Carl E. Lawson, Jr. provided the Zoning Board of Appeals a thorough Memorandum dated February 1, 2019. Inclusive in this Memorandum were certain conditions set forth on page 6 of the Memorandum and identified as numbers 1-8. The Board was satisfied with the recommendations of Mr. Lawson and that they would properly protect concerns regarding the APD and that a Special Permit could be granted consistent with the Zoning Bylaws and without causing any undue hazard, nuisance nor congestion to the existing or future character of the neighborhood.

Accordingly, a Motion was made by Mr. Baron, seconded by Mr. Martin to grant the Special Permit on the following conditions: 1. That the maximum on-site storage of toxic or hazardous materials is limited to 5000 gallons total; 2. That store personnel must provide a total liquid inventory of toxic and hazardous materials to the Health Department upon its request; 3. That the maximum allowed container size for any toxic or hazardous material is 5 gallons; 4. That a detailed material spill containment plan must be conspicuously posted at all times and all employees must be familiar with the plan; 5. That a dedicated spill kit containing a variety of absorbent pads and related supplies must be kept on-site, properly labeled; 6. That no vehicle washing at the site be allowed; 7. That no vehicle repair at the site be allowed; and 8. That no vehicle fueling at the site be allowed. Upon this Motion and after due deliberation the Board voted unanimously in favor and the Special Permit was, therefore, granted.

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 S. DeYoung, Chairman