

On September 14, 2023, on a motion by Mr. Fraprie seconded by Mr. Igoe, the Board voted 5-0 to approve these minutes.

**TOWN OF YARMOUTH  
ZONING BOARD OF APPEALS  
MINUTES for AUGUST 24, 2023**

YARMOUTH TOWN CLERK

'23SEP19PM2:18 REC

The Yarmouth Board of Appeals met in quorum at 6:00p.m. on Thursday, August 24, 2023 in the Hearing Room at the Yarmouth Town Offices, located at 1146 Route 28, South Yarmouth, MA. The meeting was held in hybrid mode, where the public could attend in person or via Zoom.

**Board Members Present and Voting:** Chairman DeYoung, Mr. Igoe, Mr. Martin, Mr. Fraprie, Mr. Mantoni, and Ms. Murphy (Alternate).

**Staff Present:** Dolores Fallon; Mark Grylls, Building Commissioner

*Due to technician error in video recording of the hearing: No audio between 0:23:45 and 1:09:41 (end of 5047, all of 5045, beginning of 5046). While sound could be heard via Zoom during the hearing, the sound could not be heard on television or on the recording.*

**PETITION 5047: Safelite Auto Glass Corporation, 40 Whites Path, South Yarmouth, MA. Map & Lot #: 97.16. Zoning District: B-1 & APD.** The Applicant seeks a Special Permit per §104.3.2(4) to change or extend a preexisting, nonconforming use (L5) for a vehicle glass repair, replacement and recalibration facility.

Attorney Andrew Singer; James Berthel, Regional Manager, Safelite Auto Glass. In addition, Kevin Sylver (property owner of 40 Whites Path) was in the audience.

Attorney Singer presented an overview:

- Space is a one-story building, 5,082 square feet.
- Tenant is changing; use is not changing (L5 Use); not proposing site changes.
- Health Department reviewed in connection with Aquifer Protection District requirements, and issued a Determination of Non-Applicability.

**Board Questions/Answers:**

- Hours of operation: 8am-5pm
- 70% of work is done on-the-road via company vans. 30% of the work done on-site is performed on vehicles inside the building/garage. ~3-4 customer vehicles on-site during a two-hour timeframe. Customer appointments are spaced out as jobs are completed.
- Safelite will be a less intensive use than previous business (retail auto parts store). Behind the business is Bayside Tent and Table.
- Prefer trees in front, parking on the side, and no cars backing out to Whites Path.
- Any vehicles stored overnight (company vans or customer vehicles) are locked inside.
- Petitioner has not conducted a new parking calculation. Property owner says front space has been used for parking, but most people pull up on the side.
- Deliveries are made after-hours (~8pm); glass is rolled into the garage bays.

**On September 14, 2023, on a motion by Mr. Fraprie seconded by Mr. Igoe, the Board voted 5-0 to approve these minutes.**

- Mr. Igoe: AYE
- Mr. Fraprie: AYE
- Mr. Martin: AYE
- Chairman DeYoung: AYE

A request was made by the petitioner to withdraw the Special Permit, without prejudice.

A motion was made by Mr. Fraprie and seconded by Mr. Martin to allow the petitioner to withdraw the request for Special Permit, without prejudice.

On a voice vote (5-0), the request to withdraw the Special Permit, without prejudice, was approved.

- Mr. Mantoni: AYE
- Mr. Igoe: AYE
- Mr. Fraprie: AYE
- Mr. Martin: AYE
- Chairman DeYoung: AYE

**PETITION 5042: Laura Mendosa, 44 Howes Road, South Yarmouth, MA. Map & Lot #: 33.84. Zoning District: R-25.** The Applicant seeks a Special Permit per §104.3.2(2) and/or Variance from §203.5 for front setback relief to allow a constructed screened porch to remain.

Ms. Mendosa: Permit was pulled. Plot Plan was created. Contractor miscalculated and the porch was built 6 inches into the setback. Found the error when measuring again for the “as built” plan.

**Board Discussion:**

Because of a preexisting encroachment, this is a Special Permit for an alteration or extension. It’s de minimus.

**No Public Comments.**

**Vote:**

A motion was made by Mr. Martin and seconded by Mr. Fraprie to approve the Special Permit, as requested.

On a roll call vote (5-0), the Special Permit was approved.

- Mr. Mantoni: AYE
- Mr. Igoe: AYE
- Mr. Fraprie: AYE
- Mr. Martin: AYE
- Chairman DeYoung: AYE

A request was made by the petitioner to withdraw the Variance without prejudice.

**On September 14, 2023, on a motion by Mr. Fraprie seconded by Mr. Igoe, the Board voted 5-0 to approve these minutes.**

A motion was made by Mr. Martin and seconded by Mr. Fraprie to allow the petitioner to withdraw the request for Variance, without prejudice.

On a voice vote (5-0), the request to withdraw the Variance, without prejudice, was approved.

- Mr. Mantoni: AYE
- Mr. Igoe: AYE
- Mr. Fraprie: AYE
- Mr. Martin: AYE
- Chairman DeYoung: AYE

**PETITION 5043: Christopher and Regina Diesz, 3 Norma Avenue, South Yarmouth, MA. Map & Lot #: 88.52. Zoning District: R-40.** The Applicant seeks a Special Permit per §104.3.2(2) and/or Variance from §203.5 for front setback relief to construct entryway in the front setback on a preexisting, nonconforming structure.

Mr. Diesz: Want to move entryway from existing location and bring the two roofs together. Need to replace the front window and want to center the window on the front of the house for better curb appeal. Currently have a handicap ramp and an unappealing front door. Needs 6 inches into the front setback.

**Board Questions/Answers:**

- Removing the ramp; no longer needed.
- Usually hesitant to give front setback relief, but in this instance, moving it back 6 inches *would not help* the streetscape; it would be a detriment to the look.

**No Public Comments.**

**Board Discussion:**

- The house is on a corner lot; fronts on 2 streets, particularly on a lot this size (10,890 sf).
- Hardship due to the shape of the lot.
- The relief of 6 inches would improve the property and be a benefit to the neighborhood.

**Vote:**

A motion was made by Mr. Fraprie and seconded by Mr. Martin to approve the Variance, as requested.

On a roll call vote (5-0), the Variance was approved.

- Mr. Mantoni: AYE
- Mr. Igoe: AYE
- Mr. Fraprie: AYE
- Mr. Martin: AYE
- Chairman DeYoung: AYE

A request was made by the petitioner to withdraw the Special Permit, without prejudice.

**On September 14, 2023, on a motion by Mr. Fraprie seconded by Mr. Igoe, the Board voted 5-0 to approve these minutes.**

A motion was made by Mr. Fraprie and seconded by Mr. Martin to allow the petitioner to withdraw the request for Special Permit, without prejudice.

On a voice vote (5-0), the request to withdraw the Special Permit, without prejudice, was approved.

- Mr. Mantoni: AYE
- Mr. Igoe: AYE
- Mr. Fraprie: AYE
- Mr. Martin: AYE
- Chairman DeYoung: AYE

**PETITION 5044: Troy Thomas, Property Location: 58 Rainbow Road, West Yarmouth, MA. Map & Lot #: 23.17. Zoning District: R-25.** The Applicant seeks a Special Permit per §104.3.2(2) and/or Variance from §203.5 for front setback relief to construct an addition in the front setback on a preexisting, nonconforming lot.

Troy Thomas, of Thomas Home Improvements, represented the property owner, Julie Tracy. The property is a corner lot with 2 fronts. The relief sought is for 18 inches into the front setback.

**Board Questions/Answers:**

- The other side is conforming, so don't have a problem with 18 inches on one side.
- If you need setback relief on a corner lot for frontage as a result of needing it for parking in a side setback we're allowed to reduce the frontage requirement to 25 feet (from the 30 feet requirement).
- See Page 32, Note X of the Zoning Bylaw.
  - *Corner lots are considered to have two front yard setbacks and two side yard setbacks. The front yard setback for corner lots may be reduced to 25' to accommodate parking in the rear or side of the building. If the corner lot has a curved radius along the frontage on a public way, the front yard setback may be reduced to 20' at the corner only.*
- The home has been in the family for a long time, so the architectural style of years past is being maintained.

**No Public Comments.**

**Vote:**

A motion was made by Mr. Martin and seconded by Mr. Mantoni to approve the Special Permit, as requested.

On a roll call vote (5-0), the Special Permit was approved.

- Mr. Mantoni: AYE
- Mr. Igoe: AYE
- Mr. Fraprie: AYE
- Mr. Martin: AYE
- Chairman DeYoung: AYE

**On September 14, 2023, on a motion by Mr. Fraprie seconded by Mr. Igoe, the Board voted 5-0 to approve these minutes.**

A request was made by the petitioner to withdraw the Variance without prejudice.

A motion was made by Mr. Igoe and seconded by Mr. Martin to allow the petitioner to withdraw the request for Variance, without prejudice.

On a voice vote (5-0), the request to withdraw the Variance, without prejudice, was approved.

- Mr. Mantoni: AYE
- Mr. Igoe: AYE
- Mr. Fraprie: AYE
- Mr. Martin: AYE
- Chairman DeYoung: AYE

**PETITION 5045:** (continued to August 24, 2023) **Gail LiDonni, Donna Zalauskas, Nancy Barbieri, J. Ellen Pace, Property Location: 33-37 Seaside Village Road, South Yarmouth, MA. Map & Lot #: 25.298. Zoning District: R-25 & HMOD-2.** The Applicant seeks to reverse the decision of the Building Commissioner, dated June 5, 2023, for clarification/resolution of apparent conflict between use of transient definition as it relates to seasonal employees residing in hotels/motels and Zoning Bylaw §404.5 regarding seasonal employee housing at hotels/motels.

*J. Ellen Pace requested an extension (received by the ZBA on July 21, 2023) and had signed extension agreement to August 24, 2023.*

**Vote:**

A motion was made by Mr. Igoe and seconded by Mr. Fraprie for a continuance to August 24, 2023.

On a voice vote (5-0), the request for a continuance to August 24, 2023 was approved.

- Mr. Mantoni: AYE
- Mr. Igoe: AYE
- Mr. Fraprie: AYE
- Mr. Martin: AYE
- Chairman DeYoung: AYE

**Adjournment:** Mr. Fraprie made a motion to adjourn, and Mr. Martin seconded. The August 10, 2023 Zoning Board of Appeals meeting adjourned at 6:55pm.