

TOWN OF HINGHAM  
Board of Appeals

SUPPORTING STATEMENT-  
REQUESTED FINDINGS



FORM2C  
SPECIAL PERMIT A1

Petitioner B&K Enterprises, LLC (“Petitioner”) is the owner of a marina property location at 26 Summer Street (the “Property”). The Property contains a licensed pier, an existing 2-story mixed-use building, gravel parking area and a public recreational marina operated by Hingham Harbor Marina (the “Marina”). The Marina currently has approximately 32 permanent slips and 14 temporary slips for recreational vessels. The Property is in the Waterfront Business District, the Floodplain Protection Overlay District and the Hingham Harbor Overlay District

Petitioner seeks a Special Permit A1 under § III-C of the Town of Hingham Zoning By-Law to reconfigure the floating dock system at the Marina to accommodate additional boat slips, and asks that the Board of Appeals make the following findings of fact in accordance with the provisions of law:

- 1. The proposed use will be in harmony with the general purpose and intent of the Zoning By-Law, for the following reasons.**

Please see “Supplement to Application for Special Permit A-1,” submitted herewith.

- 2. The proposed use complies with the purposes and standards of the relevant specific sections of the Zoning By-Law, for the following reasons.**

Please see “Supplement to Application for Special Permit A-1,” submitted herewith.

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*FORM 2C*

3. **The specific site is an appropriate location for such use, structure, or condition, compatible with the characteristics of the surrounding area, for the following reasons**

Please see "Supplement to Application for Special Permit A-1," submitted herewith.

4. **The use as developed and operated will create positive impacts or the potential adverse impacts will be mitigated, for the following reasons.**

Please see "Supplement to Application for Special Permit A-1," submitted herewith.

5. **There will be no nuisance or serious hazard to vehicles or pedestrians, for the following reasons.**

Please see "Supplement to Application for Special Permit A-1," submitted herewith.

6. **Adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use, for the following reasons.**

Please see "Supplement to Application for Special Permit A-1," submitted herewith.

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FORM 2C

7. **The proposal meets accepted design standards and criteria for the functional design of facilities, structures, storm water management, and site construction, for the following reasons.**

Please see "Supplement to Application for Special Permit A-1," submitted herewith.

**The rights authorized by a special permit expire two years from the date the decision is filed with the Town Clerk, unless exercised or extended in accordance with the terms of M.G. L. 40A, §9.**

Date: March 31, 2021

SIGNATURE

(Petitioner/Agent)

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**Please attach additional sheets if space provided is insufficient.**

Apr-15

**Supplement to Application for Special Permit A-1  
B&K Enterprises, LLC – 26 Summer Street, Hingham  
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This office represents B&K Enterprises, LLC (“B&K Enterprises”), which owns and operates the Hingham Harbor Marina property located at 26 Summer Street, Hingham, Massachusetts, Assessors’ parcel 51-4 (the “Property”). B&K Enterprises request a Special Permit A-1 under § III-C of the Town of Hingham Zoning By-Law to reconfigure the floating dock system at the Property to accommodate additional boat slips.

**I. Existing Property**

B&K Enterprises purchased the Property under a Quitclaim Deed dated August 17, 2009, recorded with the Plymouth County Registry of Deeds at Book 37624, Pages 267-273. The Property is in the Waterfront Business District, the Floodplain Protection Overlay District and the Hingham Harbor Overlay District. The Property consists of a licensed pier, a 2-story mixed-use building, a gravel parking lot on the filled pier on the Property, and a public recreational Marina presently consisting of 32 permanent and 14 temporary slips for recreational vessels. The permanent floats are secured by pilings and the temporary floats are secured by bottom-anchors. The existing dock footprint of the floating dock system is 7,854 +/- square feet.

Submitted herewith is a plan set entitled “Hingham Marina Reconfiguration, 26 Summer Street, Hingham, MA,” (3 Sheets) prepared by Childs Engineering, January 12, 2021 (the “Reconfiguration Plan”). Sheet 2 of the Reconfiguration Plan depicts existing site conditions at the Property.

The Marina is the subject of a number of zoning permits which were principally issued in connection with a redevelopment project proposed by Hingham Boat Yard, LLC, the prior owner of the Marina. The central component of the redevelopment project was a proposed mixed-use building which was never constructed. The following provides a brief outline of previous zoning permits:

- On August 1, 2002, the Zoning Board of Appeals (“ZBA”) granted a Special Permit A-1 under §III-C (Floodplain District) to secure the then-existing bottom-anchored floats with pilings.
- On April 29, 2004, the ZBA granted a Special Permit A2 under §III-A (Waterfront Business District) for retail, commercial and office uses, A1 (Floodplain District); A2 under §V-A Parking Waiver; and Variance under §IV-A for building height and rear and side setbacks. The permits approved 32-slips and an 8,622 GFA mixed-use building. On April 25, 2005, the ZBA extended the Variance. On October 19, 2006, the ZBA took the position that the permits had lapsed (but later changed its position).
- On April 16, 2008, the Planning Board conducted Site Plan Review and approved modifications to the project including the expansion of the marina to 46 boats with parking conditions.

**Supplement to Application for Special Permit A-1**  
**B&K Enterprises, LLC – 26 Summer Street, Hingham**  
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- On April 25, 2008, the Planning Board issued a Special Permit A3 Parking Waiver under §§I-J and V-A which was appealed. Thereafter, on November 20, 2008, the Planning Board issued a Modification to the Site Plan Approval modifying the parking conditions.
- On December 19, 2008, the ZBA permitted the withdrawal of certain requested modifications and granted others conditioning the expansion of the marina with a third dock characterized as a “temporary” use regulated under G.L. c. 91, §10A, for a three-year term with a right to renew for a new three-year term.<sup>1</sup>
- On May 27, 2009, the Planning Board issued a Minor Modification of the Approved Site Plan incorporating the ZBA’s condition regarding the third dock. The ZBA also issued a Modification of its Special Permit/Variance modifying the Special Permit A1 and A2 to add the third dock area subject to the same condition. Thereafter, the pending appeal was dismissed.
- On June 16, 2016, the Senior Planner confirmed that the third dock may be used for up to 14 slips until May 26, 2019, on account of the Permit Extension Act. Later, Dana Baxter, on behalf of the Marina, requested a further renewal for a new three-year term.

The proposed mixed-use building and pedestrian boardwalk addressed in the above zoning permits were never constructed and have been abandoned.

## **II. Marina Reconfiguration Project**

The proposed project addresses a continuing local need and desire for additional boating capacity in the Hingham Harbor. For the past few years, the capacity at the Marina has not been sufficient to meet the requests and needs of boaters. The Marina has been fully leased during the past seven boating seasons and there is a growing waiting list for vacant slips. The Marina further understands that nearby marinas also have significant waiting lists for slips. The demand for access to the water has exceeded existing capacity. Additionally, waterfront real estate development has reduced the opportunity to construct new facilities. The only way to create new slip capacity is to expand existing marinas. The creation of new slips in Hingham Harbor would provide additional revenue to the Town and promote consumer activity for local merchants.

The Marina proposes to reconfigure its floating dock to accommodate 82 boat slips. The proposed reconfiguration of the slips is depicted in detail on Sheet 3 of the Reconfiguration Plan. The floats would all be pile-held to better secure the facility, increase public safety, reduce

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<sup>1</sup> The use may have been characterized as temporary because there were concerns with the parking demands for the proposed mixed-use building at the time.

**Supplement to Application for Special Permit A-1  
B&K Enterprises, LLC – 26 Summer Street, Hingham  
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maintenance and provide an environmental improvement over bottom-anchors and chains. Approximately 25 steel guide piles approximately 14” wide will be installed to secure the floats. The proposed design has a footprint of approximately 13,194 +/- square feet. The usage and function of the new docks will be the same as the existing docks.

The proposed reconfiguration would extend the Marina further seaward to the north and to the southeast by approximately 60 feet in each direction. The expansion would be located entirely on property owned by B&K Enterprises. The Marina recognizes that the proposed reconfiguration would be located within a portion of the Town’s mooring field closest to the Marina. The Marina would work cooperatively with the Town to minimize the conflict and accommodate the two uses.

Under § V-A, a marina is required to have 1 off-street parking space for 2 berths (slips). Accordingly, the project requires a total of 41 parking spaces. The existing office building at the Marina, which is approximately 1200 square feet, requires a total of 4 spaces (3.5 spaces for 1000 square feet). Thus, the total parking required for Property uses is 45 spaces. The Marina currently has a total of 46 parking spaces, including 2 handicap accessible van spaces. The Reconfiguration Plan, Sheet 3, lays out the proposed parking.<sup>2</sup> **See Attachment 1.**

**III. The Project Meets the Requirements Set Forth in § III-C**

The Property is located in the Floodplain Protection Overlay District and alterations and construction require a Special Permit issued by the Zoning Board of Appeals. *See* § III-C. According, B&K Enterprises request a Special Permit in accordance with § III-C of the Zoning Bylaws, and submits that its project meets the requirements of § III-C for the following reasons:

**1. The proposed use will be in harmony with the general purpose and intent of the Zoning By-Law.**

The Property is located in the Floodplain Protection Overlay District (“FPOD”). The purpose of the FPOD is to (1) protect public health, safety and welfare; (2) protect human life and property from hazards of periodic flooding; (3) prevent contamination of water quality due to flooding; (4) preserve natural flood characteristics; and (5) regulate development consistent with FEMA. *See* § III-C.

The project does not require any landside changes which might create any new or additional flooding hazards or otherwise pose a flooding threat to public health, safety and welfare. The only changes proposed are to the footprint of the floating dock area. Although there will be additional pilings constructed to support the floating dock framework, the pilings will not alter the flooding characteristics of the Property. There will be no changes to parking area(s) (other than

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<sup>2</sup> The Marina does not propose to change the existing gravel surface of the parking area. Chain currently identifies the parking spaces and the Marina does not anticipate changing this.

**Supplement to Application for Special Permit A-1  
B&K Enterprises, LLC – 26 Summer Street, Hingham  
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laying out several additional spaces and relocating a dumpster) and no changes to the pervious characteristics of the existing gravel surface for parking. No changes are proposed to the existing two-story mixed-use building and/or existing facilities.

**2. The proposed use complies with the purposes and standards of the relevant specific sections of the Zoning By-Law.**

The Marina is a permitted use in the Waterfront Business District. The usage and function of the new docks will be the same as the existing docks.

The proposed expansion at the Marina will not require any landside changes or create any new or additional flooding hazards or otherwise pose a flooding threat to public health, safety and welfare. Although there will be additional pilings constructed to support the floating dock framework, the pilings will not alter the flooding characteristics of the Property or create a hazard. Rather, the pilings will better secure the facility, increase public safety, reduce maintenance and provide an environmental improvement over bottom-anchors and chains.

There will be no changes to parking area(s) (other than laying out several additional spaces and relocating a dumpster) or to the pervious characteristics of the gravel surface for parking. No changes are proposed to the existing two-story mixed-use building and/or existing facilities.

**3. The specific site is an appropriate location for such use, structure, or condition, compatible with the characteristics of the surrounding area.**

The Property is on the waterfront and includes a general office building, pier and marina with floating dock system. The Property is bordered by State Highway Route 3A, and there are a number of similar commercial and waterfront uses nearby, including a public boating ramp, Lincoln Maritime Institute and Town-owned moorings and boat slips. The project is compatible with this its neighborhood, both in nature and in scale.

**4. The use as developed and operated will create positive impacts or the potential adverse impacts will be mitigated.**

It is undeniable that the community is seeking additional recreational boating access to the waters in Hingham Harbor. The Marina has been fully leased for multiple successive boating season and maintains a waiting list for vacant slips. Moreover, as is generally understood by all, local marinas and mooring fields also have long waiting lists. Public demand for access to the waters of Hingham Harbor exceeds existing capacity. Creating additional capacity at the Marina will have a positive impact by addressing a local need.

The usage and function of the new docks will be the same as the existing docks. However, the new floating dock system will be safer and more secure. The floats would all be pile-held, which will better secure the facility, increase public safety and reduce maintenance. The piles will

be built and provide an environmental improvement over bottom-anchors and chains.

**5. There will be no nuisance or serious hazard to vehicles or pedestrians.**

The project will not create a nuisance in the surrounding area. The Property presently operates as a marina and will continue to operate as a marina.

The proposed project will not alter the safety of vehicular and pedestrian movement within the Property. Access to the site will continue to be through the existing curb opening along highway Route 3A. All proposed parking spaces comply with applicable dimensional requirements, and drive aisles within the site accommodate circulation. Adequate parking is provided onsite, including two (2) handicap van accessible parking spaces.

**6. Adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use.**

There are adequate restroom facilities on the Property.

**7. The proposal meets accepted design standards and criteria for the functional design of facilities, structures, storm water management, and site construction, for the following reasons.**

A contractor has not been selected as of this application submittal date, but the project management team will ensure that a qualified marine contractor with extensive experience with similar projects is selected. The contractor will determine the best procedure for construction and will be required to abide by all necessary local, state, and federal construction regulations as well as all conditions applied to the project by the Order of Conditions.

None of the improvements proposed for the Marina impact stormwater. The Marina is not proposing to change the existing gravel surface of the parking area, nor is the Marina proposing to improve the existing two-story mixed-use building or any facilities. Although the parking lot may be used as a laydown for materials during construction, this will be temporary, and the contractor will be required to abide by all necessary local, state and federal construction regulations.