

TOWN OF LITTLETON
BOARD OF APPEALS

37 Shattuck Street
 P.O. Box 1305
 Littleton, MA 01460
 Tel: 978-540-2420



APPLICATION FOR PUBLIC HEARING

Pursuant to MGL Chapter 40A, 40B and 41 and the Littleton Zoning Bylaws

TOWN USE ONLY

Received by the Town Clerk Office

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ _____ Check # _____

Pursuant to the provisions of Chapter 40, §57 of the Massachusetts General Laws as adopted by Town Meeting 2003, this document must be signed by the Tax Collector verifying payment of taxes.

Signature of Tax Collector

The undersigned hereby submits this petition for the following action (check all that apply):

- ☐ Appeal of Decision of Building Inspector or other administrative official(see page 2)
☐ Special Permit (40A)(see page 2)
☒ Variance (see page 3)
☐ Comprehensive Permit (40B) **Complete additional application** (see page 2)

PETITIONER: Signature _____

Date: _____

RICHARD J. ROCHE

Print Name

147 NEW ESTATE ROAD

Address

LITTLETON, MA 01460

Town, State, Zip

CEU: 978-761-0584

Phone #

ROCHE@77@aol.com

Email Address

Deed Reference: Bk _____ Page _____

PROPERTY OWNER: *include authorization of Owner for Petitioner to represent Owner, if unsigned*

Richard J. Roche
 Signature

5/10/2022
 Date

 Phone #

 Print Name (if different from petitioner)

 Email

 Address (if different from petitioner)

ASSESSOR MAP & PARCEL NUMBER _____

ZONING DISTRICT: R VC B IA IB (Circle all that apply)

Check box if ☐ **AQUIFER DISTRICT**
 applicable

☐ **WATER RESOURCE DISTRICT**

FEES
 Residential Property \$200 filing + \$105 recording fee + \$25 abutter list + \$75 public hearing notice = \$ 405
 Commercial Property \$350 filing + \$105 recording fee + \$25 abutter list + \$75 public hearing notice = \$ 555
 Comprehensive Permit \$1000 + \$100/unit over 10 units
 Please make check payable to Town of Littleton

Appeal

Under MGL c. 40A §. 8

The undersigned hereby appeals a written order or decision of the Building Commissioner / Zoning Officer or other administrative official alleged to be in violation of the provisions of MGL c. 40A or the Zoning By-laws to the Board of Appeals for the Town of Littleton.

1. From what Town Official or Board is the appeal being sought?

Mandatory: Attach copies of written order or decision under appeal

Administrative Official _____ Date of order / decision _____

2. Which statute or Zoning Bylaw do you rely for your appeal?

MGL c.40A § _____ Zoning Bylaw § _____ Code of Littleton § _____

You may also consider whether you qualify for relief under any other authority of the Board to grant a Special Permit or Variance.

3. I hereby certify that I have read the Board of Appeals Instructions for Appellants and that the statements within my appeal and attachments are true and accurate to the best of my knowledge and belief.

Signature

Print name

Special Permit 40A

Under MGL c. 40A §. 9

The undersigned hereby petitions the Board of Appeals for the Town of Littleton to grant a Special Permit for the reasons hereinafter set forth and in accordance with the applicable provisions of the Zoning By-law.

1. Special Permits are expressly permitted in the Zoning Bylaws. Which Zoning Bylaw section do you rely for your appeal?

Zoning Bylaw § _____

2. Why are you applying for a Special Permit? Attach a written statement that specifically describes existing conditions and your objectives, along with necessary exhibits as listed in the filing instructions. *You may also consider whether you qualify for relief under any other authority of the Board to grant a variance.*

3. I hereby certify that I have read the Board of Appeals Instructions for petitioners and that the statements within my petition and attachments are true and accurate to the best of my knowledge and belief.

Signature

Print Name

See supplemental instructions: Littleton Zoning Board of Appeals Rules for the Issuance of a Comprehensive Permit under

Special Permit 40B

Under MGL c. 40B

Variance

Under MGL c. 40A §. 10

The undersigned hereby petitions the Board of Appeals for the Town of Littleton to vary, in the manner and for the reasons hereinafter set forth, the applicable provisions of the Zoning By-law.

1. Specifically, from what Zoning bylaw section are you seeking relief? 173 Attachment 1
2. Why are you seeking relief from a literal enforcement of this Zoning Bylaw?
Attach a written statement that specifically describes existing conditions and your objectives, along with plans, specifications, certified plot plan and any documentation necessary to support your request.
3. Show evidence that you meet the minimum requirements of a variance under section 173-6 B (2) of the Littleton Zoning Bylaws.
Attach a written statement which specifically includes why, owing to conditions (soil, shape, or topography) especially affecting the premises, but not affecting generally the zoning district in which it is located, a literal enforcement of the Zoning By-law would result in a substantial hardship to you. Applicant must clearly demonstrate the lack of alternative remedies.
4. *I hereby certify that I have read the Board of Appeals Instructions for petitioners and that the statements within my petition and attachments are true and accurate to the best of my knowledge and belief.*


Signature

RICHARD J. ROCHE
Print name

Filing Instructions

1. **IMPORTANT: SEE THE BUILDING COMMISSIONER/ZONING ENFORCEMENT OFFICER BEFORE YOU FILL OUT THIS APPLICATION.** He will assist you with the proper zoning sections and application request(s). His review may save time by preventing delays in the hearing process.
 2. Bring the completed application packet to the Administrative Assistant to the Building Commissioner who will assist you in filing with the Town Clerk.
- Necessary Exhibits**— provide 3 copies and an electronic copy of the following with the completed application:
1. A copy of the most recently recorded plan of land or where no such plan exists, a copy of a plot plan endorsed by a registered engineer or land surveyor. The plan should show;
 - A) metes and bounds of the subject land
 - B) adjacent streets and other names and readily identifiable landmarks and fixed objects
 - C) dimensional layout of all buildings
 - D) distances and setbacks from the various boundaries
 - E) exact dimensions, setbacks and specifications of any new construction, alterations, additions or installations
 - F) direction of North
 - G) the name of each abutting property owner
 2. Copy of the latest recorded deed
 3. A written statement which details the basis for your petition
 4. Pictures, plans, maps, drawings and models are always helpful in explaining the problem
 5. In cases pertaining to signs, a scale print of the sign lettering and colors
 6. In cases pertaining to subdivisions of land, prints should show the proposed subdivision endorsed by a registered engineer or land surveyor
 7. In cases pertaining to Accessory dwellings evidence that the Board of Health has approved the septic system
 8. The date of the building construction and the history of ownership are useful in finding facts about the case

Completed applications filed with the Town Clerk by the third Thursday of the month will be considered at the next regularly scheduled Zoning Board of Appeals meeting, held on the third Thursday of the following month.

The Board in its discretion may dismiss an application or petition for failure to comply with any of the foregoing rules

General Information

What authority does the Board of Appeals have?

The Board of Appeals obtains its authority under the Massachusetts General Laws Chapter 40A §14 and the Town of Littleton's Zoning By-law 173-6 to hear and decide *appeals*, to hear and decide applications for *Chapter 40A special permits*, and to hear and decide petitions for *variances*. The Board of Appeals also hears and decides applications for *special permits for low and moderate income housing under Massachusetts General Laws Chapter 40B Sections 20, 21, 22, and 23*.

What is an Appeal?

Pursuant to Massachusetts General Laws Chapter 40A §8 and Littleton Zoning By-law 173-6 B(3) and 173-6 B(5) the Board of Appeals hears and decides appeals by any person aggrieved by any written order or decision of the Zoning Enforcement Officer or other administrative official in violation of any provision of Massachusetts General Laws Chapter 40A or the Littleton Zoning By-laws. Building permits withheld by the Building Commissioner acting under MGL C. 41, §81Y as a means of enforcing the Subdivision Control Law may also be issued by the Board of Appeals. Action taken by the Building Commissioner acting under the Code of Littleton Chapter 152 will also be heard by the Board of Appeals. *If the Zoning Enforcing Officer or other administrative official does not issue a written order or decision, the Board of Appeals will not hear the appeal.* Appeals from the written decisions of the Zoning Enforcement Officer or other administrative official must be filed with the Office of the Town Clerk pursuant to Massachusetts General Laws Chapter 40A Section 15 within thirty (30) days from the date of the written order or decision which is being appealed. **Failure to file a timely appeal is fatal.**

What is a Chapter 40A Special Permit?

Certain uses of property are permitted as a matter of right. However, the Littleton Zoning By-laws provide that other uses are not allowed in certain zoning districts, and that specific types of uses shall only be permitted in specified zoning districts upon the issuance of a Special Permit from the Board of Appeals pursuant to Massachusetts General Laws Chapter 40A § 9, 9A, and 9B. Special Permits may be issued only for uses which are in harmony with the general purpose and intent of the By-law, and may be subject to general or specific provisions set forth therein, and such permits may also impose conditions, safeguards and limitations on time or use. A Special Permit, unlike a Variance, may be conditioned by limiting its duration to the term of ownership or use by the Applicant. When a Special Permit application is accompanied by plans or specifications detailing the work to be undertaken, the plans and specifications become conditions of the issuance of the permit. Therefore, once a Special Permit is granted, modification of the plans or specifications require as a prerequisite, modification of the Special Permit through the filing of a successive Special Permit application. No building permit may be issued by the Building Commissioner for a use or structure that requires a Special Permit until 1) a Special Permit has been granted by the Board of Appeals, 2) the expiration of the twenty (20) day appeal period pursuant to Massachusetts General Laws Chapter 40A Section 11, and 3) the Special Permit has been recorded at the Middlesex South District Registry of Deeds. The Building Commissioner shall require proof of recording at the Registry of Deeds from the Town Clerk prior to issuance of a building permit. No party is entitled "as a matter of right" to a Special Permit. The Board of Appeals, in the proper exercise of its discretion, is free to deny a Special Permit even if the facts show that such a permit could be lawfully granted. **Special Permits 40A shall lapse 24 months following the granting unless substantial use or construction has commenced.**

What is a Chapter 40B Special Permit?

Chapter 40B is a state statute, which enables local Boards of Appeals to approve affordable housing developments under flexible rules if at least 25% of the units have long-term affordability restrictions. Also known as the Comprehensive Permit Law, Chapter 40B was enacted in 1969 to help address the shortage of affordable housing statewide by reducing unnecessary barriers created by local approval processes, local zoning, and other restrictions. Its goal is to encourage the production of affordable housing in all communities throughout the Commonwealth. **Special Permits 40B shall lapse 3 years from the date the permit becomes final unless construction authorized by a comprehensive permit has begun, or unless specifically noted otherwise in the permit by the Board of Appeals.**

What is a Variance?

A Variance is a waiver of the zoning rules adopted by the Citizens of Littleton at Town Meeting. A Variance may be granted pursuant to the Littleton Zoning By-laws and Massachusetts General Laws Chapter 40A Section 10. Accordingly, it is only in rare instances and under exceptional circumstances that relaxation of the general restrictions established by the Zoning By-laws are permitted. A Variance is distinguished from a Special Permit. The Variance is used to authorize an otherwise prohibited use or to loosen dimensional requirements otherwise applicable to a structure. No person has a right to a Variance. *Variance of "use" is almost never granted by the Board of Appeals. Variance of "dimensional" requirements is granted in rare occasions.* **The Board of Appeals has no discretion to grant a Variance unless the petitioner provides evidence, and that the Board of Appeals determines that, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.** Even if the Board of Appeals find that such hardship exists, it may exercise its discretion and not grant a Variance. No building permit may be issued by the Building Commissioner for a use or structure that requires a Variance until 1) a Variance has been granted by the Board of Appeals, 2) the expiration of the twenty (20) day appeal period pursuant to Massachusetts General Laws Chapter 40A Section 11, and 3) the Variance has been recorded at the Middlesex South District Registry of Deeds. The Building Commissioner shall require proof of recording at the Registry of Deeds from the Town Clerk prior to issuance of a building permit. **Rights authorized by a Variance must be exercised within 1 year of granting, or said variance shall lapse.**

ZONING

173 Attachment 1

Town of Littleton

Intensity of Use Schedule

[Amended 5-8-2000 ATM, Art. 26; 6-15-2000 STM, Art. 2; 2-3-2010 STM, Art. 4]

District	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Street Setback (feet)	Minimum Side, Rear Setbacks (feet)		Maximum Building Height ¹⁰ (feet)	Maximum Lot Coverage (percent)	
				Principal Building or Structure	Accessory Building or Structure		By Buildings	By Buildings plus Paving
R	40,000	150	30 ^{8,9}	15	10	32	—	60
VC ¹	15,000	100	25 ¹¹	15 ⁶	15 ⁶	32	50 ⁷	80
B ¹	15,000	100	25 ^{8,1}	5 ⁶	15 ⁶	32	50 ⁷	80
I-A	—	—	80 ⁵	50 ⁵	50 ⁵	40	30 ⁷	80
I-B ¹	—	—	30 ²	20 ³	20 ³	40 ⁴	35 ⁷	80

NOTE:

- ¹ Permitted residential use shall observe requirements of the residence district.
- ² Thirty feet or 1 1/2 times the building height, whichever is greater.
- ³ Twenty feet or height of building, whichever is greater.
- ⁴ Greater height may be allowed on special permit from the Planning Board upon its determination that such height is functionally essential for the operation of the activity and will cause no substantial increase in shadow cover or reduction in privacy on abutting premises.
- ⁵ In an Industrial A District, no building or other structure shall extend nearer than 80 feet to a main public way or nearer than 50 feet to a side or rear lot line or secondary public way, except when the public way divides an industrial and a residential district, the setback shall be 150 feet; when the public way is a limited-access highway, the setback shall be 20 feet; and the setback shall not apply to gatehouses, watchman's houses, electrical substations, gas or water meter stations or valve houses and similar one-story buildings, provided that they are of masonry construction and no larger than 12 feet by 12 feet in plan and 10 feet in height to the eaves or to signs as limited by § 173-35. For this purpose, a "secondary public way" is defined as one entirely contained within the bounds of the industrial district, all others being main public ways. Also, when property ownership extends beyond the bounds of the industrial district, the boundary of the

LITTLETON CODE

industrial district shall be considered the lot line for determining setbacks unless the use of the premises is also a permitted use in the adjoining district.

A smaller setback from a main public way, but not smaller than 50 feet, may be authorized on special permit from the Planning Board, upon its determination that:

- i) Either the topography of the site and its vegetation provide adequate visual screening for the building despite the smaller setback or the proposal is harmonious with its surroundings in architectural scale, use of materials, colors and landscape treatment; and also
- ii) There are public interest benefits from the smaller setback, such as superior protection of natural features of the site or avoidance of sensitive areas or making feasible a desirable development not otherwise possible.

⁶ When abutting a residential use or district, 25 feet, which shall contain no parking.

⁷ Provided, however, that the total of the gross floor area on all floors, not including cellars, shall not exceed 0.4 times the combined land area of the site, plus any off-site areas used for ancillary parking under § 173-32 in Industrial I-A and I-B Districts, and shall not exceed 0.6 times that combined area in business districts.

⁸ If more than one street abuts the lot, then the additional street setback may be reduced one foot for every 2,000 square feet under 40,000 square feet of lot area, but to not less than 15 feet.

⁹ Where structures exist on the adjacent lot(s) on either side of the property, the street setback need not be greater than the average of the setbacks of the adjacent structures.

¹⁰ The maximum building height for a municipal education structure shall be no greater than 50 feet; provided, however, that the Planning Board may issue a Special Permit authorizing this height restriction to be exceeded upon a finding that such restriction significantly and unreasonably interferes with use of the structure for an educational purpose.

¹¹ Within the Village Common zoning district, the Planning Board, as part of Site Plan Review, may determine that special circumstances render a lesser Minimum Street Setback adequate to meet the purposes of the Littleton zoning bylaw. If a lesser setback is allowed, the Planning Board may impose such conditions as it deems necessary. Such circumstances may include consistency with existing street setbacks and design that encourages a pedestrian environment.

May 10, 2022

Town of Littleton
Board of Appeals
37 Shattuck Street
Littleton, MA 01460

To Whom It May Concern,

We are requesting a variance to place a shed within 10 ft of our property line on the driveway side. We had a 6 ft privacy fence installed 6 inches from the property line. The shed would be 5 ft from the property line.

Though we have a large lot 3.485 acres, the lot has varying terrain with large drop offs (in back and side), slanted front yard and woods.

The back yard also has a patio 15' X 25'.

The front yard has our Septic System and Leaching Field.

Our house is at least 70' back from my closest neighbor's house on the driveway side and farther back from the other houses in front of us.

We see no other practical area to place the shed.

Thank you,

Shelly and Dick Roche
147 New Estate Rd.
Littleton, MA 01460

Home: 978 952-2812
Dick's Cell: 978761-0584

Attachment: List of Abutters



Abutters:

Lauren & Bruce Juergens
153 New Estate Rd.

Rick Ogilvie
145 New Estate Rd.

Deb & Carl Austermann
141 New Estate Rd

Lee & George Ogilvie
146 New Estate Rd.

Paul Denaro
152 New Estate Rd.

EGMR 3 Distribution Center LLC
Property Location: 3 Distribution Center Circle
C/O Bentall Kennedy (US) LP
C/O Altus Group
PO Box 92129
South Lake, TX 76092

New Estate Road - 1 of 2

Printed on 09/30/2014 at 02:07 PM

610 1220 ft

The data shown on this map are provided for informational and planning purposes only. The town and its consultants are not responsible for the misuse or misinterpretation of the data.



Southern Middlesex - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 5/26/2022 10:57:49 AM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
1283	DEED		26276/94	04/30/1996	203550.00
Property-Street Address and/or Description					
147 NEW ESTATE RD LOT 9					
Grantors					
JOHN S GIAIMO INC					
Grantees					
ROCHE RICHARD J &UX, ROCHE SHELLY &AL					
References-Book/Pg Description Recorded Year					
Registered Land Certificate(s)-Cert# Book/Pg					

QUITCLAIM DEED

JOHN S. GIAIMO, INC., a Massachusetts corporation having its usual place of business at 2 Park Drive, Westford, Middlesex County, Massachusetts, 01886

for consideration paid and in full consideration of **TWO HUNDRED THREE THOUSAND FIVE HUNDRED FIFTY AND NO/100 DOLLARS**

grants to **RICHARD J. ROCHE** and **SHELLY ROCHE**, husband and wife, as tenants by the entirety,

of 86 Oak Street, Randolph, MA 02368

with **QUITCLAIM COVENANTS**

A certain parcel of land with the buildings thereon, on New Estate Road in Littleton, Middlesex County, Massachusetts shown as "Proposed Lot #9" on a plan entitled, : "Plan of Land in Littleton, MA." Plan prepared for MDSX, INC., 17 Progress Avenue, Chelmsford, MA 01826, Date: July 24, 1995, Scale 1" - 40', Plan By: Stony Brook Survey, Inc., 31 Linden Street, Hudson, Mass. 01749, to be recorded with the Middlesex South District Registry of Deeds at Book 25862, Page 245, and to which plan reference may be had for a more particular description of the premises.

Said Lot 9 contains 3.485 acres, more or less according to said plan.

Said premises are conveyed subject to all rights, easements, restrictions, encumbrances and agreements of record.

Said premises are also conveyed subject to a variance from the Littleton Board of Appeals in Case No. 426 A, dated June 28, 1995, recorded with the Middlesex South District Registry of Deeds in Book 25515, Page 141, on July 27, 1995.

Grantor acknowledges for themselves, their successors and assigns that the remaining land owned by MDSX, INC. comprising approximately 192.4 acres, is now and can in the future be used for any industrial or commercial purposes. As part of the consideration of this conveyance, the Grantee irrevocably agrees for themselves, their successors or assigns not in any manner, means or form to oppose or object to any present or future industrial or commercial use of said remaining land, irrespective of whether said remaining land is owned by the said MDSX, INC. or its successors or assigns. In the event the Grantee or their successors or assigns breach the foregoing agreement, the remedies of MDSX, INC. or its successors or assigns, on account of such breach, shall include, but not be limited to, specific performance of the foregoing agreement.

25.00

1283

03:58:36

M.D. 04/30/96 03:58:36

MA 01460

Littleton, MA

New Estate Rd.

Lot 9

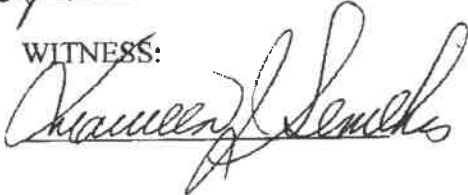
Tax: 447

Mass. Excise Tax

Being all and the same premises conveyed to the said Corporation by deed of MDSX, INC., dated November 28, 1995 and recorded with Middlesex South District Registry of Deeds at Book 25862, Page 261.

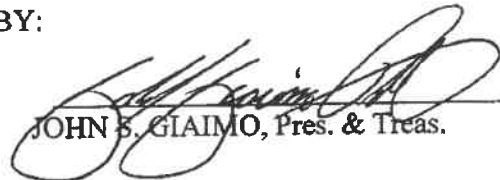
This conveyance does not constitute all or substantially all of the assets of the Seller.
IN WITNESS WHEREOF, the said JOHN S. GIAIMO, INC., has caused its corporate seal to be hereto affixed and these presents to be signed, sealed, acknowledged and delivered in its name and behalf by JOHN S. GIAIMO, its President and Treasurer, this 29th day of April, 1996.

WITNESS:



JOHN S. GIAIMO, INC.

BY:

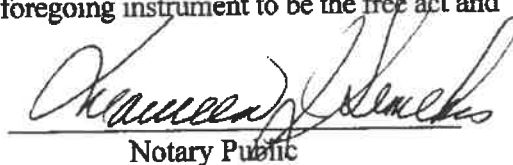

JOHN S. GIAIMO, Pres. & Treas.

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF: Middlesex

April 29, 1996

Then personally appeared the above named, **JOHN S. GIAIMO, President and Treasurer, as aforesaid,** and acknowledged the foregoing instrument to be the free act and deed of the said Corporation, before me,


Notary Public

My Commission Expires:

11-15-02
