

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: \$ 300

Check # 3050

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

James T. McLaughlin Jr

Date: 8-12-19

Print Name

67 MILL RD

Address

LITTLETON MA 01460

Town, State, Zip

Phone #

617 596 1300

Email Address

13jimmymac@gmail.com

Deed Reference: Bk

72115 Page 437

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

James T. McLaughlin Jr 8-12-19

Signature

Date

617 596 1300

Phone #

13jimmymac@gmail.com

Email

Print Name (if different from petitioner)

Address (if different from petitioner)

ASSESSOR MAP & PARCEL NUMBER

U38-28

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

Check box if applicable

☐ AQUIFER DISTRICT

☐ WATER RESOURCE DISTRICT

FEES
 Residential Property: \$200 filing fee + \$75 recording fee + \$25 abatement list = \$300 to Town of Littleton
 Commercial Property: \$350 filing fee + \$75 recording fee + \$25 abatement list = \$450 to Town of Littleton
 Comprehensive Permit: \$1000 + \$100/unit over 10 units
ADDITIONAL FEES: ALL APPLICATIONS:
 Legal Notice publication fee to be paid prior to opening the hearing

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? ZONING 173 ATTch 1
2. Why are you seeking relief from a literal enforcement of this Zoning Bylaw? FRONT SETBACK RELIEF
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.

James T. McLaughlin Jr
Signature

JAMEST. MCLAUGHLIN JR
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. Apply for a certified abutters list with the Assessors office (request for certified list of abutters form enclosed)
3. 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 hard 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

67 MILL ROAD
LITTLETON, MA 01460

Good evening members of the ZBA

We are Laurie and Jim. We are before you requesting relief of the front setback. After many meetings with the Conservation Committee, they were hoping we could get 20' of relief, putting us 10' from the road. We were trying to stay back off the road as much as possible. A builder in the audience at our hearing a year ago informed us that if the stairs were not physically attached to the house, the stairs could sit in the setback. After receiving 15' of relief we went ahead with our build. The foundation is in, the house is weather tight and the electrician is almost done with his rough. During a visit to the site Roland Bernier, the building inspector, explained to us that the law was changed and the stairs are considered when measuring for the setback, that we do not have enough room for the stairs and to go to the ZBA. We are looking for 42" of relief of the front setback.

The foundation was put in at 17' from the road and the fascia is at 16'. I would like to put in a set of stairs that are 60" off the house, approximately 36" into the designated front setback. That still leaves a setback of 11.5'. There is a rise in elevation along the road at the front of 48" – 54" in height. This keeps any plowed snow or what little traffic goes by, away from the stairs, which drop down hugging the house towards the driveway.

Thank you for considering our request.

Sincerely, Laurie and Jim

**NARRATIVE
NOTICE OF INTENT**
67 Mill Road, Littleton, Massachusetts
October 23, 2018
Revised November 29, 2018

This narrative is provided to support the Notice of Intent filing for 67 Mill road and to provide sufficient information to fully describe the project. This narrative shall also be considered written request for a waiver in accordance with section 1.4 of the Town of Littleton Wetland Protection Regulations (Littleton Regulations) for work within the 50-foot No-disturb setback from and inland back as set forth in Section 4.2 of the Littleton Regulations. *Revisions are provided in italics.*

A General Information

Existing Conditions

The property at 67 Mill Road adjacent to Mill Pond and is 20,560 sf, with approximately 14,000 under water; the resource area is Inland Bank, of Mill Pond. The existing front yard setback is 25.7 feet. The Littleton Conservation Commission's 50-foot No Touch Zone occupies 9,300 sf from Mill Pond at the rear of the property toward the front and extends beyond the 30-foot front yard setback for a most of the lot. The grades generally slope from the front of the lot at the street line to the rear; a portion of the lot rises a few feet above the street then slopes toward the rear. There are several large pine trees toward the east side of the lot. The existing structure on the lot is a one-story, one-bedroom, uninsulated house that is about 880 sf – much of this is an enclosed porch. The structure is not worth keeping due to the deteriorated condition and age of the structure.

The property has been tested for the potential for a new septic system, this revealed that the soil is medium sand and gravel with a percolation rate less than two minutes per inch. A preliminary layout indicates that a two-bedroom septic system can be provided on the lot. Ground water was found to be at an elevation similar to the pond elevation.

The flood plain does not encroach on the structure and the proposed structure will not be within the flood zone.

Applicants:

Lorraine (Laurie) Riley and Jim McLaughlin

Owner:

Jane Simmons

Additional documents accompanying this application are as follows

- Topographic Plan in Littleton, MA at 67 Mill Road, by Summit Surveying, May 29, 2018, Charles J. Brennan PLS
- Sewage Disposal System Design – 67 Mill Road, Littleton Massachusetts, Ted P. Doucette, PE
- Site Development and Stormwater Control Design for 67 Mill Road, Littleton, Massachusetts, Ted P. Doucette, PE
- Photographs of the property
- List of abutter
- Floor plan and elevations

During informal hearings with the Conservation Commission options were presented to create a project that will not adversely affect the resource area, Mill Pond and to meet the Littleton Regulations at the greatest extent possible while providing a project that is viable to the owners and applicants. One of the options was to move the house further from the resource area by reducing the front yard setback; the conservation commission seemed to agree that reducing the front yard to 10 feet was the proper distance. The applicant made this request in the form of a Special Permit and Variance request to the Zoning Board of Appeals. The existing setback is 25.7 feet and the Zoning Bylaw requires 30 feet; the ZBA allowed the front yard setback to be reduced to 15 feet.

Proposed Conditions

The applicant proposes to construct a new home on the property, the floorplan is enclosed with this application. The exiting house is an irregular shape and small, therefore the proposed footprint squares off the structure to provide a reasonable living space. The proposed foundation is 24 ft x 48 ft and the roof overhang will be 1 ft therefore the impervious area of the structure will be 1300 square feet.

The foundation will be no closer than 17 feet to the front lot line, with the building overhang required to meet the zoning reduction of 15 feet, and a factor of safety of one foot is provided.

During construction erosion control measures will be taken to prevent silt, soil and construction materials from running into the resource area. The straw wattles will also serve as a visual limit of work to prevent construction materials from being placed near the resource area. Dry wells will be installed to infiltrate roof runoff.

The scope of work also includes removing seven large pine trees that are a safety threat to the proposed home.

Table 1 – Impervious Area Summary

	Impervious. Area (sf)	Impervious. Area w/in 50' ND (sf)	Impervious Area Infiltrated (sf)
Existing	876	830	0
Proposed	1300	766	1300

sf – square feet

Table 1 shows the summary of impervious area under the existing conditions and proposed conditions. As can be seen, the impervious area within the 50-foot no disturb zone is reduced under the proposed conditions. Also, with no infiltration occurring in the existing conditions, the proposed conditions greatly reduce the possible impact of roof runoff by infiltrating all runoff from the impervious roof.

Compliance with the Wetlands Protection Act

Performance standards: 310CRM10.53

Construction phase

The work will occur only in the buffer zone and will be in accordance with the General Provisions of 310CRM10.53 as the proposed work poses no adverse impact to the resource area. The construction phase has a limit of work to prevent equipment and materials from entering the or being located next to the resource area. Erosion controls are located within the limit of work to delineate the limit of work and to prevent materials soil or debris from washing into the resource area.

Nov 19 - The revised site development plan has an additional tree that needs to be removed because it is close to the proposed septic system. When the system was laid out in the field we realized the tree was too close. There is also a specific planting plan that includes 30 plants in four species that were selected due to the site conditions: sun, pervious soil, height and the types of pollinators that could be attracted

Nov 29 – The revised planting plan includes an additional 10 plants and 5 trees to accommodate the request of the Cosnervatoin Commission and the wider no-mow zone (requested increase from 6 – 10 feet at the hearing on November 19, 2018). Also, three shade trees are shown as requested to compensate for the trees that are being removed.

Post Construction

The proposed structure will propose no threat to the resource area as all stormwater from the impervious roof will be infiltrated by dry wells which will prevent erosion from roof runoff. The area will be vegetated to prevent erosion. Also a 6-foot wide no-mow strip is shown, and this area will be planted with pollinator species described in Massachusetts Pollinator Protection Plan provided by the Massachusetts Department of Agricultural Resources or as specified by the Littleton Conservation Commission.

Nov 19 - The proposed home will have an impervious area of 1,300 square feet which will be infiltrated into a drywell. The volume of the drywell is equal to a 1.3-inch rainstorm, and the capacity of the drywell is greater due to the exfiltration from in the coarse sand. The proposed driveway is 12 feet wide at the street and approaching house, and is 22 feet wide at the house; the surface will be pervious gravel but may be upgraded with the Commissions permission to a pervious pavement or pavers.

Nov- 29 – In response to comments at the hearing, boulders will be placed along the driveway to prevent vehicles from being parked too close to the bank. The size and spacing is provided on the plan

B Buffer Zone and Resource Area Impacts

All work will be conducted within the buffer zone to inland bank only, as described herein, there will be no impact to the resource area due to the work within the bufferzone.

C Other Applicable Standards and Requirements

There are no other areas protected by the Natural Heritage and Endangered Species Program. Also this project is not subject to Massachusetts Endangered Species Act (MESA) review is not located within an Area of Critical Environmental Concern (ACEC) and is not located in a Federal Emergency Management Agency (FEMA) flood zone. The property is located in the Littleton Aquifer Protection District; there are no restrictions that apply to single-family homes in this over lay district.

Town of Littleton Wetland Protection Regulations

The proposed work does not occur within the resource areas designated by the Wetlands Protection Act, the proposed structure is within the 50-foot no disturb zone designated by the Littleton Wetlands Regulations. Construction is proposed to be beyond 35

feet from the resource area and the driveway beyond 10 feet from the resource area. In accordance with Section 1.4 a waiver is requested to allow construction within the 50-foot setback of an inland bank.

Table 2 -Upland area summary

Description	Area
Upland	12,500
Upland within 50' No disturb	9,200
Upland outside of 50' and Zoning Setbacks	221

As shown in Table 2, the 50-foot No disturb zone severely limits the feasible area of construction upland area, and combining that with the zoning setbacks there is no possible land to construct a home. The Littleton Zoning Board of Appeals helped by reducing the front yard setback, and now we are just asking that the Conservation do their part to allow the applicant to construct a home that is reasonably livable.

Littleton Regulations Section 4.3 Performance Standards

This project will not significantly impair the values and functions of the resource area because the construction will be limited has protections, and all runoff from impervious areas will be infiltrated rather than running off into the resource area. The net additional impervious area in the buffer zone will increase due to the new structure being larger but the net impervious are within the 50-foot no disturb will be reduced as shown in Table 1.

Waivers must meet the requirements of the by-law:

Public Interest— replacing this run-down uninhabitable house with a new home is in the interest of town residents as it will replace an unattractive home that will continue to deteriorate with a new house that is suitable to the neighborhood. It could be a safety hazard as it is unoccupied and could be an attractive nuisance. Also, the materials of construction from the time it was built could be a hazard to the water as they may contain asbestos or lead paint.

November 19 - Additionally the existing non-compliant and in adequate septic system will be replaced with a fully compliant Title-5 septic system. There are notes on the revised Site Development and Stormwater Control Design on the Septic Design Plan that state this requirement.

Replacing this house would also be in the town's interest as a new home will have greater value and the taxes from the house would be a greater contribution to the general fund. Also, if no waivers are granted, and a new house cannot be built the property could be abandoned, seized by the town and then all the problems become the residents' problems who have to pay for abatement, demolition and cleanup, with the property never coming back on the tax rolls.

Consistent with bylaw - Allowing for a development of this lot, partially within the 50-foot buffer zone would be considered consistent with the intent of the bylaw because the proposed work will minimize the impact to the pond. The bylaw has the 50-foot no-touch zone, which is applicable to larger properties and projects that can be completed beyond the 50-foot no touch, but should not be applicable to properties such as this where the 50-foot no touch zone takes up all of the buildable area.

The least environmentally damaging practicable alternative.

There are not a lot of alternatives for this property due to the size of the lot and the location of the resource area in relation to the lot. There were several options previously discussed, but they all included a new home and the only variable was the location of the structure. A smaller structure could be built, but the home must be practicable to live in as well as to protect the environment, and the proposed house certainly is not overly big; reducing the house size is not a viable option. The only other option is a no-action alternative and as discussed above that is not the most environmentally friendly option, as the septic system will not be repaired, the existing house will continue to deteriorate.



NARRATIVE
ZBA – APPLICATION FOR PUBLIC HEARING
Special Permit and Variance Requests
67 Mill Road, Littleton, Massachusetts
September 23, 2018

The narrative is to provide the request for relief and accompany the Application for a Special Permit and Variance for 67 Mill Road to allow for a reduced front yard setback required in Section 173-27 and the Intensity of Use Schedule: the required setback is 30 feet and the applicant is asking to reduce that to no less than 10 feet.

Due to the circumstances relating to the size of the lot, shape of the lot (Mill Pond encroaching on more than half of the lot) a literal enforcement of the provisions of the Zoning By-law would involve substantial hardship on the applicant. The requested relief may be granted without substantial detriment to the public good without substantially derogating from the intent or purpose of the Zoning Bylaw. The evidence of the conditions requiring the relief are described below.

Petitioners/Applicants:

Laurie Riley and Jim McLaughlin

Owner:

Jane Simmons

Additional documents accompanying this application are as follows

- Topographic Plan in Littleton, MA at 67 Mill Road, by Summit Surveying, May 29, 2018, Charles J. Brennan PLS
- Current Deed
- Photographs of the property
- Assessor's Card
- Certified list of abutter

Existing Conditions

The property at 67 Mill Road adjacent to Mill Pond and is 20,560 sf, with approximately 14,000 under water. The existing front yard set back is 25.7 feet. The Littleton Conservation Commission's 50-foot No Touch Zone occupies 9,300 sf from Mill Pond at the rear of the property toward the front and extends beyond the 30-foot front yard setback for a most of the lot. The grades generally slope from the front of the lot at the street line to the rear; a portion of the lot rises a few feet above the street then slopes toward the rear. There are several large pine trees toward the east side of the lot. The existing structure on the lot is a one-story, one-bedroom, uninsulated house that is about 880 sf – much of this is an enclosed porch. The structure is not worth keeping due to the deteriorated condition.

The property has been tested for the potential for a new septic system, this revealed that the soil is medium sand and gravel with a percolation rate less than two minutes per inch. A preliminary layout indicates that a two-bedroom septic system can be provided on the lot. Ground water was found to be at an elevation similar to the pond elevation.

The flood plain does not encroach on the structure and the proposed structure will not be within the flood zone.

Proposed Conditions

The applicant proposes to construct a new home on the property, the floorplan is enclosed with this application. The exiting house is and irregular shape and small, therefore the proposed footprint squares off the structure. The foot print of the new structure is 1150 sf.

Special Permit and Variance Request

Due to the size of the lot and the fact that the river becoming a pond since the time the lot was created until now, the area conducive to construction is limited. The other complicating factor is the Conservation Commission holding the owner to strict compliance and not being flexible considering the conditions present on the lot and pushing as much work out of the 50-foot no touch zone. This requirement reduces the buildable area to 3,200 sf, all of which is within the 30-foot front yard setback. Therefore, assistance in the form of variances is necessary for this pre-existing, non-conforming lot. If held to strict compliance with all of the town's

regulations and by-laws a new structure could not be built and the owner will have a financial hardship.

During informal hearings with the Conservation Commission they requested that the applicant seek a reduction in the front yard offset to 10 feet. This is closer than other lots on the street; but if there is a street to have that minimum offset, Mill Road may be the one as this is a dead end and 67 is near the end of the street (there is not a lot of traffic on the street and it is residential so speeds should be within the limit).

Middlesex South Registry of Deeds
Electronically Recorded Document

This is the first page of the document - Do not remove

Recording Information

Document Number	: 4463
Document Type	: DEED
Recorded Date	: January 11, 2019
Recorded Time	: 11:22:32 AM
Recorded Book and Page	: 72115 / 437
Number of Pages(including cover sheet)	: 3
Receipt Number	: 2285869
Recording Fee (including excise)	: \$717.80

MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 01/11/2019 11:22 AM
Ctr# 294979 08394 Doc# 00004463
Fee: \$592.80 Cons: \$130.000.00

Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.middlesexsouthregistry.com

QUITCLAIM DEED

I, JANE A. ROTHENBERG-SIMMONS, as personal representative of the Estate of Robert H. Simmons, Middlesex County Probate Court Docket Number #MI17P5846EA, of Boston, Suffolk County, Massachusetts,

FOR CONSIDERATION PAID, and in full consideration of One Hundred Thirty Thousand and 00/100 (\$130,000.00) DOLLARS,

Grant to LORRAINE RILEY AND JAMES MCLAUGHLIN, as Joint Tenants with Rights of Survivorship, of 67 Mill Road, Littleton, Middlesex County, Massachusetts

WITH QUITCLAIM COVENANTS the land in said Littleton, with the buildings thereon, situated on the southwesterly side of Mill Road being lots 5 and 6 as shown on plan entitled "Land in Littleton owned by Curtis W. Drew, Surveyed by Horace F. Tuttle, November 9, 1948", said plan being recorded in Middlesex South District Deeds, bounded and described as follows:

Beginning at the southwesterly side of said road at corner of Lot No. 4 as shown on said plan, thence running North 41° 26' West by said road one hundred sixty-five (165) feet; thence running South 49° 9' West by land of Curtis W. Drew one hundred fifty-two (152) feet to the thread of the brook in the mill pond; thence running in a southeasterly direction by the thread of the brook one hundred sixty-eight (168) feet, more or less, to said lot 4 as shown on said plan; thence running northeasterly by said lot 4 one hundred seventy-eight (178) feet more or less, to the point of beginning.

Said premises are conveyed subject to existing rights of flowage.

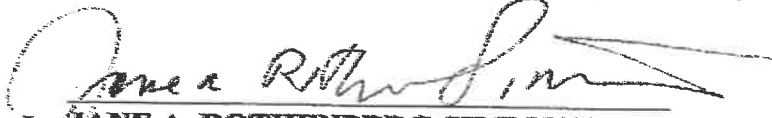
Said premises are conveyed subject to the restriction that no fences or other permanent obstructions shall be placed in the water over that part of the granted premises now under water which shall be at any point more than twenty-five (25) feet from high water mark of said mill pond.

Grantor and all heirs at law hereby release any and all rights of homestead in said property and under the pains and penalties of perjury swear that no other persons are entitled to homestead

rights in the property being conveyed by this deed.

For title, see deed of Curtis W. Drew to Allan S. Simmons and Louise Simmons, recorded with said Registry of Deeds in Book 7799, Page 569.

WITNESS my hand and seal this 11th day of January, 2019.

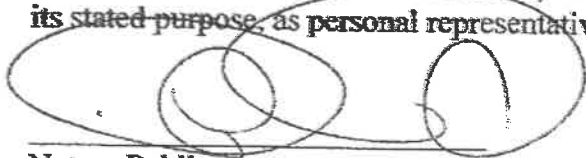


JANE A. ROTHENBERG-SIMMONS

As Personal Representative of the Estate of Robert H. Simmons

Middlesex **COMMONWEALTH OF MASSACHUSETTS**
County

On this 11th day of January, 2019, before me, the undersigned notary public, personally appeared **JANE A. ROTHENBERG-SIMMONS**, proved to me through satisfactory evidence of identification, which were drivers license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose, as personal representative.



Notary Public

My commission expires: 9/14/20



