

Jan 1
7/20 P.M.
286 Goldsmith St
ZBA Case No. 914A

**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

received

12/13/18 LH 3:15 pm

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ 300 Check # 1040

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.

Deborah A Richards

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 T - Neufell

Date: _____

Print Name Timothy Neufell

Phone # 508-847-1190

Address 286 Goldsmith St

Email Address tnyfelli@verizon.net

Town, State, Zip Littleton MA 01460

Deed Reference: Bk _____ Page _____

FEES

Residential Property \$200 filing fee + \$75 recording fee + \$25 abutter list = \$300 to Town of Littleton
Commercial Property \$350 filing fee + \$75 recording fee + \$25 abutter list = \$450.00 to Town of Littleton
Comprehensive Permit \$1,000 + \$100/unit over 10 units

ADDITIONAL FEES: ALL APPLICATIONS:

Legal Notice publication fee to be paid prior to opening the hearing

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

R Neufell Signature

Date _____

Phone # 508-847-1190

Print Name (if different from petitioner) _____

Email _____

Address (if different from petitioner) _____

ASSESSOR MAP & PARCEL NUMBER U16 92

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

Check box if applicable

AQUIFER DISTRICT

WATER RESOURCE DISTRICT

ZBA Case 914A

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

Asst. Zoning Officer /Letter

Date of order / decision

12/4/18

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.

8

T. Neff

Signature

T. Neff

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

Special Permit 40B

Under MGL c. 40B

See supplemental instructions: Littleton Zoning Board of Appeals Rules for the Issuance of a Comprehensive Permit under M.G.L.c40B

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?

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

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 copies 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.**



Littleton Building Department
P.O. BOX 1305
LITTLETON, MA 01460
(978) 540-2420

December 11, 2018

Timothy Neufell
286 Goldsmith Street
Littleton, MA 01460

Dear Mr. Neufell;

This letter is in response to continued complaints received about the business activity operating from your home. You had previously agreed to move the landscaping equipment and were granted approval to keep one of the dump trucks at the home. During the week of November 26th this office received complaints with photographs that the trucks and equipment were again being kept at the property.

This office visited you at the property on November 30, 2018. Observed on that date were two dump trucks with trailers holding landscaping equipment and several snow plows in the carport. The storage of commercial equipment is not considered compatible with the residential character of the area, and is considered *prima facie* evidence that the commercial activity/storage is not incidental to the residential use.

The Littleton Zoning Bylaw § 173-54 Home occupation allows customary home occupations, office of professional persons residing on the premises, handicrafts, hobbies or activities of a similar nature are allowed, provided that such activities are carried on by residents of the dwelling plus not more than one (1) additional employee and that accessory buildings used for such purposes shall not be placed forward of the rear line of the building. As such the use of the carport for the purpose of conducting a home occupation is not allowed because it is located forward of the rear line of your house, and that open and bulk outside storage of other equipment is incompatible with the residential character of the neighborhood. Based on these findings you are ordered to comply with the above noted bylaw or cease the activity.

Therefore, upon receipt of this notice, within 30 days you are ordered to cease the storage of equipment on the site in connection with the above noted business activity. Failure to comply with this order shall result in fines as prescribed by law.

You have the right to appeal this order pursuant to General Laws Chapter 40A §8 and 15, to the Littleton Board of Appeals, provided such an appeal is taken within thirty days from the receipt of this order. Failure to file a timely application is fatal.

If there are any further questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

Michelle Cobleigh
Assistant Zoning Officer

Janet Fairchild

From: Michelle Cobleigh
Sent: Thursday, December 13, 2018 2:01 PM
To: Janet Fairchild
Subject: FW: 286 goldsmith Street

You can print this and put in the 286 goldsmith application and get stamped in with Town Clerk

From: tneufell@verizon.net [mailto:tneufell@verizon.net]
Sent: Thursday, December 13, 2018 12:22 PM
To: Michelle Cobleigh <mcobleigh@littletonma.org>
Subject: Re: 286 goldsmith Street

Hi Michelle

I am in receipt of your letter and would like to appeal the letter to the ZBA please. I have moved the majority of my equipment to my shop.

I would like to be able to keep 2 of my commercial one ton dump trucks at the property that will be only be used for snow plowing operations. I will be using one and my stepson will be using the other one, both of us reside at the residence.

Thank you

Tim Neufell

Sent from AOL Mobile Mail
Get the new AOL app: mail.mobile.aol.com

On Tuesday, December 11, 2018, Michelle Cobleigh <mcobleigh@littletonma.org> wrote:

Here is the new letter we discussed. If you want to proceed with appealing the decision submit a written statement which details the basis for the petition. The original is being mailed to your home address today.

Michelle

