

Office of the

LITTLETON BOARD OF APPEALS

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Petitioner: GEORGIANA B. GAGNON

Case No: 855A

Date Filed: June 4, 2015

The Littleton Board of Appeals conducted a public hearing on June 18, 2015, (continued to July 16, 2015), at 7:30 P.M. at the Shattuck Street Municipal Building, Shattuck Street, Littleton, for a Special permit pursuant to Section 173-7, 173-25 and 173-26A to allow "Other principal uses with externally observable attributes similar to (permitted) uses", specifically function hall use within an addition being constructed at 547 Great Road, Littleton, Ma. Notice of the hearing was given by publication in the Littleton Independent, a newspaper circulated in Littleton, on May 28, and June 4, 2015, and by mail to all abutters and parties in interest. Present and voting: Sherrill R. Gould, Chairman, Jeff Yates, John Cantino, and Cheryl Hollinger, Members, and Rod Stewart, Alternate. Present and not voting were Patrick Joyce, Alan Bell and Marc Saucier, Alternates.

The Petitioner was represented by her agent, Bruce Ringwall, of GPR Civil Engineering. He explained that the property at 547 Great Road was recently purchased and was permitted for office uses of wellness and meditation under Section 173-26A. The property is on a state highway in the Industrial A zone. Office uses are permitted as of right and the Building Inspector has treated meditation and wellness practices as office uses in the past. The Petitioner is seeking to add a barn addition to the building approximately 32' x 42' in size, to be used for functions and social gatherings such as dance classes, contra dances, weddings, ceremonies, class instruction, and similar group activities. The zoning bylaw permits "motel, hotel, conference center" in the Industrial A zone but has no category specifically for functions and weddings. The zoning bylaw permits "other principal uses with externally observable attributes similar to uses permitted above" by Special Permit acted upon by the Zoning Board of Appeals in the Industrial A zone. The Petitioner seeks to have the Board determine that the requested use is permitted by Special Permit as having externally observable attributes similar to the allowed use, namely hotel and conference center.

The property is surrounded on the easterly and southerly sides by industrial properties. Directly to the west is an abandoned state highway, Old Great Road, which is seldom used except for overhead utilities and to the north is Beaver Brook Road a busy commuter road from Littleton to Westford. Abutting Beaver Brook Road to the north is residentially zoned land and several residences. Several of the residents on Beaver Brook Road, and Old Great Road North of Beaver Brook Road appeared in opposition to the Petition.

The original petition was filed in conjunction with applications before the Planning Board for Site Plan approval and Special Permits for the proposed uses. The original petition contained a request for 180 seat functions, limited parking, and outdoor tented events in pleasant weather. The abutters objected to the original proposal citing significant nuisance, hazard, congestion, and substantial harm to the neighborhood, including noise, traffic, likelihood of attendees parking on the residential abutting streets, alcohol use and its incident problems, late night dispersing of

“party goers”, and general disruption to the peace and quiet of the neighborhood during the evening and weekend hours when the abutters finally enjoy some limited relief from the commuter traffic on the commuter road and the state highway. Other site limitations were raised by the Board and the Abutters relating to the septic capacity, the traffic flow in and around the site, the trash and refuse, serving and controlling alcohol serving and control, smoking on the street, and the applicant’s calculations of parking needs, but those items were addressed primarily in conjunction with the issue of substantial harm and nuisance, as they fell within the jurisdiction of other boards.

The hearing was continued for the applicant to revise the plans in response to the abutter objections. At the continued hearing, the applicant presented a modification to the special permit request reducing the maximum capacity of the functions to 100 seats, eliminating the tent for outdoor functions, expanding the number of parking spaces, proposing limits on outdoor music as well as hours of operation, and several “house guidelines” designed to minimize the abutter concerns. At the continued hearing, the applicant also reported that the Planning Board had approved the revised site plan with fewer seats, increased parking, limitations on hours of operation, prohibition of parking on Beaver Brook Road, and no outdoor tent, as was being presented to the zoning board.

At the continued hearing abutter opposition remained consistent, with the primary objection being the noise from band or disc jockey music, especially on balmy weekend evenings and nights when residents might be enjoying their yards or have their windows open. Board members, although mindful and sympathetic to the concerns, were generally in support of the use of the property for function purposes provided proper control and limitations could be established to minimize harm and nuisance to the neighbors. Primarily, the Board cited that the property is in an Industrial A zone and could be used as of right for uses far more offensive and disturbing than what was being proposed with the proffered limitations.

**FINDINGS:** The Board found that the reduction in scope, the limitation in size, the increased parking, the proposed house guidelines, and the orientation of the building would reduce the nuisance, and that conditions could be imposed to reduce congestion and hazard. The Board found that with certain conditions, the proposed uses could be allowed as “uses with externally observable attributes similar to uses permitted” within the zone, and they would not create a nuisance or any substantial harm, or derogate from the intent of the zoning bylaw.

**DECISION:** The Board voted unanimously to GRANT a Special Permit pursuant to Section 173-26A to allow function uses within a structure at 547 Great Road, for functions and social gatherings such as dance classes, contra dances, weddings, ceremonies, class instruction, and similar group activities, subject to the following conditions and limitations:

1. No amplified music is allowed outdoors.
2. All outdoor music must cease promptly at 8 pm.
3. All music must adhere to the decibel limits imposed by the town ordinance.
4. The structure will be designed and built with acoustic treatment to minimize noise emanating from the functions and reasonable efforts will be made to contain any loud music by closing windows and doors when appropriate.

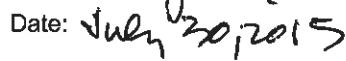
5. A police detail is required for all events where alcohol is served if the attendance is over 60 persons, unless the town waives a police detail for any specific event.
6. The maximum number of attendants at any function will not exceed 100.
7. The applicant will provide an outdoor smoking area on the southerly side of the property. During all functions, the site will have signage directing attendees of functions to park primarily in the parking lot accessed from Old Great Road, with the parking lot accessed from Beaver Brook Road, limited to persons with mobility issues and specified guests and staff.
8. There will be "No parking signs" posted along the South side of Beaver Brook Road.
9. There will be signage prohibiting any "Event or Function Parking" on Old Great Road north of Beaver Brook Road.
10. The seasonal lot will have marked parking spaces for functions/events.
11. Overflow parking will be encouraged in a safe manner along Old Great Road south of Beaver Brook Road only.

Appeals, if any, shall be made pursuant to G.L. 40A, Section 17 and shall be filed within twenty days after the date of filing of this Notice in the office of the Town Clerk.

Signed:



Date:



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I hereby signify that twenty (20) days have elapsed since the filing of the above Decision by the Board of Appeals and that no appeal concerning said decision has been filed or that any appeal that has been filed has been dismissed or denied.

True Copy Attest: \_\_\_\_\_ Town Clerk, Littleton, Massachusetts