

Petitioner: Carl Strathmeyer
Address: 80 King Street, Littleton, Ma.
Case No. 858A
Date Filed: July 27, 2015

The Littleton Board of Appeals ("Board") conducted a public hearing on August 20, 2015 at the Shattuck Street Municipal Building on the petition of Carl Strathmeyer for a special permit under the requirements of Section 173-10(B) to permit a change, extension or alteration to a preexisting non-conforming use at 80 King Street, Littleton, Ma. Notice of the hearing was given by publication in the Littleton Independent, a newspaper circulated in Littleton on August 6 and 13, 2015, and by mail to all abutters and parties in interest. Present and voting: Acting Chairman, William Farnsworth, Cheryl Hollinger, and Jeff Yates, members, Marc Saucier and Rod Stewart, Alternates. Present and not voting were Alan Bell and Patrick Joyce, Alternates.

The petitioner is the purchaser of the property at 80 King Street, Littleton, Ma., under a Purchase and Sale Agreement with the current owner. He presented an application for a special permit to extend and alter a pre-existing non-conforming use at 80 King Street, to allow (a) sales and repair of musical instruments, (b) studio space for private music lessons, and (c) a small recital/performance space. The property has been used as a residence and retail business (Webber Florist Company) since 1927. The property is in a residential district. It has a large colonial structure with first floor retail showroom, storage and arrangement space, as well as greenhouses and other building additions. It also has a residence on the first floor and another residence on the second floor. There is parking in front of the building. The property is located on a state highway, Route 2A/110. Across the street is the Catholic Church and along the street are residences, the Indian Hill Music for the Arts, and the Littleton High School. The petitioner stated that the proposed use of the property as a music store and studio to (a) sell and repair musical instruments (b) provide studio space for private lessons and (c) for small performance recitals by students would not be substantially more detrimental to the neighborhood than the existing non-conforming use.

The Petitioner presented a copy of the deed, a copy of the Purchase and Sale Agreement, and a power point presentation with his plans for renovating and using the space within the structure. He described in detail his business plan and the traffic anticipated, as well as his hours of operation and his history as an owner of a music store currently in downtown Littleton. The renovated space would result in approximately 3,000 – 4,000 square feet of retail showroom, studios and storage on the first floor, with residential use continuing on the second floor. He explained that his store sells higher end and higher quality instruments so the location near the highway was ideal for his destination type customers.

A letter received from the Building Inspector was read into the record. His comment was that the florist business was originally a legally permitted use as a greenhouse and single family dwelling, but that over the years a retail component was added. His opinion was that the retail business was accessory to the onsite horticulture operation so it could be argued that the Petitioner's request should be treated as a variance. Several abutters appeared in support of the Petitioner's proposed change of use if the decision was by Special Permit, which could contain conditions, and not by variance, which would allow that property to be used for any commercial purpose in the future.

The Board deliberated the merits of the application and the comments from the Building Inspector. The Board agreed that the retail use of the business for flower sales, assembly of arrangements, and delivery was a pre-existing non-conforming use. They further agreed that the

proposed use for retail sales and service of musical instruments and music lessons was not an extreme change. The Board determined to treat the application as a Special Permit request to "change, extend and alter" a pre-existing non-conforming use for the purpose of the requested uses (a) sale and repair of musical instruments, and (b) music lessons. The Board also requested the Petitioner to continue his request for (c) the performance space to a subsequent hearing so that an opinion of counsel could be received whether the performance/recital space could be authorized by special permit and should be treated as a variance. The Petitioner agreed.

FINDINGS: The Board found that the Petitioner satisfied all of the requirements for a special permit under the bylaw as to the retail sales and service of musical instruments and small studio spaces for lessons. The Board found that the change was not substantially more detrimental to the neighborhood than the existing non-conformity.

DECISION: The Board voted unanimously to Grant a Special Permit under Section 173-10(B) of the Littleton Zoning By-law to permit the retail sales and service of musical instruments and to provide studio space for music lessons at 80 King Street, Littleton, Ma.

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.

This Special Permit shall not take effect until a copy of the Decision bearing the certificate of the Town Clerk is recorded with the Middlesex District Registry of Deeds in accordance with the provisions of M.G.L. C. 40A, Section 11 and 15 stating that twenty (20) days have elapsed after the Decision has been filed in the office of the Town Clerk and no appeal has been filed, or if such appeal has been filed it has been dismissed or denied.

Signed: _____

Jeffrey Yates, Clerk

Dated: September 22, 2015
Book 30137, Page 166

I hereby signify that twenty 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