

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
YF 12/10/14

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ 350.00 Check # 13767
13768

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.

Yvonne Kord

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 225 GREAT ROAD, LLC
 Print Name ALPHONSE SANTOS, PC
200 LITTLETON 121
 Address WESTFORD, MA 01886
 Town, State, Zip

Date: DEC 9, 2014

Phone # 978-692-3107

Email Address dalphen@alphonsos.com

Deed Reference: Bk 49686 Page 16
E. 63283 488

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

Signature SANTO Date

Phone #

Print Name (if different from petitioner)

Email

Address (if different from petitioner)

ASSESSOR MAP & PARCEL NUMBER W06 1 0
W07 2 0

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

Check box if applicable **AQUIFER DISTRICT**

WATER RESOURCE DISTRICT

FILING FEES		ADDITIONAL FEES(all applications)
Residential Property	\$200 to Town of Littleton	\$ 75 to Comm of Mass-recording fee
Commercial Property	\$350 to Town of Littleton	\$25 to Town of Littleton-abutter list
Comprehensive Permit	\$1000 + \$100/unit over 10 units	Legal Notice publication fee due prior to opening 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? 173-26

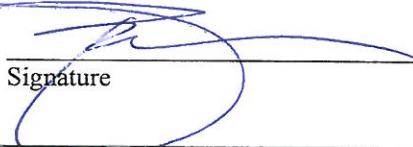
2. Why are you seeking relief from a literal enforcement of this Zoning Bylaw?

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

PAUL F. ALPHEN
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 14 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

ALPHEN & SANTOS, P.C.

ATTORNEYS AND COUNSELORS OF LAW
200 LITTLETON ROAD, WESTFORD, MA 01886
(978) 692-3107

December 9, 2014

Board of Appeals
Town of Littleton
37 Shattuck Street
PO BOX 1305
Littleton, MA 01460

RE: Variance Request/221 Great Road/225 Great Road, LLC

Dear members of the Board:

This office represents 225 Great Road, LLC, the owner of property at 221 (aka 225) Great Road and 235 Great Road, Littleton. The within petition is a request for a use variance to allow our client to use the residentially zoned land behind the Acton Toyota dealership for uses accessory to, and consistent with, the retail car dealership permitted on the portion of the land zoned for business purposes. In that regard, below, please find the following proposed findings of fact:

PROPOSED FINDINGS OF FACT

1. That the petitioner is the owner of 221 (aka 225) Great Road and 235 Great Road, Littleton, by virtue of deeds recorded with Middlesex South District Registry of Deeds at Book 49686, Page 16 and Book 63283, Page 488 (copies enclosed), and has standing to bring the within petition.
2. The subject property is situated on the northerly side of Great Road. It is principally located in the Business District, except for a sliver of land on the easterly side and a portion of land at the rear of the dealership. A copy of the relevant portion of the Littleton GIS map is enclosed.
3. The lot containing the Acton Toyota dealership at 221 Great Road contains 11.59 +/- acres and the lot containing the mixed use retail building at 225 Great Road contains 1.45 acres. The lots and the improvements thereon are depicted on an "ALTA/ASCM Land Title Survey" plan dated November 30, 2014, a copy of which is enclosed.
4. The immediate abutter is Kimball Farm Village on the Common LLC, which according to the Board of Appeals decision, is a 40B Comprehensive Permit project containing 108 condominium units located in 54 duplex buildings, a pavilion, a wastewater treatment plant, and associated structures and infrastructure. A Google Earth photograph of the area is enclosed.
5. The Acton Toyota at Littleton dealership was constructed in accordance with a Major Commercial Use Special Permit issued in 2005, a copy of which is attached. The mixed use retail/automobile dealership was found to be permitted in the Business District with a Special Permit for a Major Commercial Use and Site Plan Approval.
6. Such uses are not permitted in the Residential District.
7. The Maximum Lot Coverage requirement in the Residential District is 60%. A copy of the Intensity of Use Schedule is enclosed.
8. The petitioner engaged its engineers to prepare a plan to determine how the residentially zoned land may be used for the accessory storage of vehicles for the dealership. The "Parking Study" plan dated December 2, 2014 is enclosed and depicts 296 new spaces, while maintaining at least

twenty five (25') feet of setback from all property lines and 57% lot coverage in the residential zone.

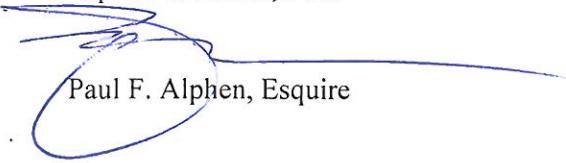
9. Without a use variance, the residentially zoned land, containing approximately 133,085 square feet of area, cannot be used productively, as the land is landlocked by the Business district and the dealership use, and otherwise has no frontage.
10. As shown on the Parking Study plan and the Google Earth photograph, the proposed use would be screened from the adjacent 40B project by at a 25' buffer containing existing tree cover.
11. The vehicle storage area would not be a noisy use of the residential land, and would be a less intense use than some other uses permitted in the Residential District. Some of the uses permitted in the Residential District include: Non Profit Schools, Day Care, Church, Library, Museum, Hospital, certain Municipal Uses, Lodging House, Farm, and Greenhouse.
12. The variance would allow the petitioner to store more inventory on premises reducing the need for offsite storage of inventory and reducing the amount of traffic associated with shuttling vehicles back and forth from offsite storage facilities, and improve service to the shopping public.

Therefore, we hope that the Board will find that:

- (a) owing to circumstances relating to the shape, or topography of such land, whereas the subject portion of the land is a triangular section of Residentially zoned land without its own frontage and isolated behind a car dealership; and
- (b) especially affecting such land or structures but not affecting generally the zoning district in which it is located, whereas the proposed use variance is an extension of the abutting Business District to permit the expansion of an existing permitted use into the residentially zoned portion of an existing lot of land;
- (c) a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner whereas if the variance is not granted the petitioner (i) will continue to own a landlocked parcel not suitable for other uses and (ii) will continue to have to store vehicles at offsite locations which results in traffic in and out of the site and (ii) will potentially inconvenience the shopping public by not having a comprehensive inventory on site; and
- (d) 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 whereas (i) the proposed use is an accessory use of an existing, abutting, permitted use, and (ii) the proposed use would be set back at least 25 feet from property lines and (iii) the proposed use will not exceed the 60% maximum lot coverage requirement of the Residential District.

Thank you for your attention to this matter

Very truly yours,
Alphen & Santos, P.C.


Paul F. Alphen, Esquire



TOWN OF LITTLETON
BOARD OF ASSESSORS
P.O. BOX 1305
LITTLETON, MA 01460
(978) 540-2410
FAX: (978) 952-2321

November 13, 2014

Christopher J. Alphen, Esq.
Balas, Alphen & Santos, P.C.
200 Littleton Road
Westford, MA 01886

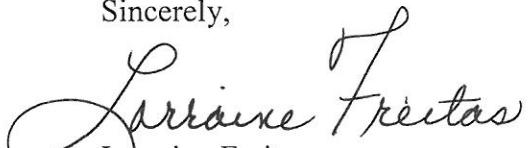
Re: Abutter's List – 221 Great Road, Littleton
U06-1-0

Dear Atty. Alphen:

As per your request, enclosed is the Certified list of Abutter's within 300 feet of 221 Great Rd., Littleton, MA., together with a set of labels.

If you have any questions regarding this matter, please feel free to contact this office. Thank you.

Sincerely,



Lorraine Freitas
Lorraine Freitas,
Assistant Assessor



TOWN OF LITTLETON
BOARD OF ASSESSORS
P.O. BOX 1305
LITTLETON, MA 01460
(978) 540-2410 FAX: (978) 952-2321

Date: November 12, 2014

Re: **Certified List of Abutters for Board of Appeals (300 feet - public hearings, special permits
And/or for Variances)**

Applicant Christopher J. Alphen Name of Firm: Balas, Alphen & Santos, P.C.
Mailing Address: 200 Littleton Rd., Westford, MA 01886

Subject Parcel Location: 221 Great Road, Littleton, MA 01460
Subject Owner 225 Great Road LLC
Subject Parcel No: U06-1-0

M.G.L. Chapter 40A, Section 11. "In all cases where notice of a public hearing is required notice shall be given by publication in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid. **Parties in interest** as used in this chapter shall mean the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the planning board of the city or town, and the planning board of every abutting city or town. The assessors maintaining any applicable tax list shall certify to the permit granting authority or special permit granting authority the **names and addresses of parties in interest and such certification shall be conclusive for all purposes**. The permit granting authority or special permit granting authority may accept a waiver of notice from or an affidavit of actual notice to any party in interest or, in his stead, any successor owner of record who may not have received a notice by mail, and may order special notice to any such person, giving not less than five nor more than ten additional days to reply."

I hereby certify the attached list of abutter(s) as stated in the M.G.L. Chapter 40A, Section 11.

Number of Abutter(s) 16 including the subject parcels + 1 Applicant Requesting Abutter's List.

Certified by:

A handwritten signature in black ink, appearing to read "Lorraine Freitas".

Lorraine Freitas
Lorraine Freitas, Assistant Assessor

Unofficial Property Record Card - Littleton, MA

General Property Data

Parcel ID	U06 1 0	Account Number	0
Prior Parcel ID	--	Property Location	221 GREAT RD
Property Owner	225 GREAT ROAD LLC	Property Use	AUTO SS
Mailing Address	221 GREAT RD	Most Recent Sale Date	6/28/2007
City	LITTLETON	Legal Reference	49686-16
Mailing State	MA	Grantor	MORAN ROBERT R TRUSTEE OF,
Parcel/Zoning	B	Sale Price	1
		Land Area	11.590 acres

Current Property Assessment

Card 1 Value	Building Value	Xtra Features Value	Land Value	Total Value
5,753,700		126,500	1,608,600	7,488,800

Building Description

Building Style	AUTO DEALR	Foundation Type	SLAB
# of Living Units	0	Frame Type	STEEL
Year Built	2008	Roof Structure	FLAT
Building Grade	VERY GOOD	Roof Cover	TAR+GRAVEL
Building Condition	Average	Sliding	CONC BLOCK
Finished Area (SF)	67085	Interior Walls	DRYWALL
Number Rooms	0	# of Bedrooms	0
# of 3/4 Baths	0	# of 1/2 Baths	12

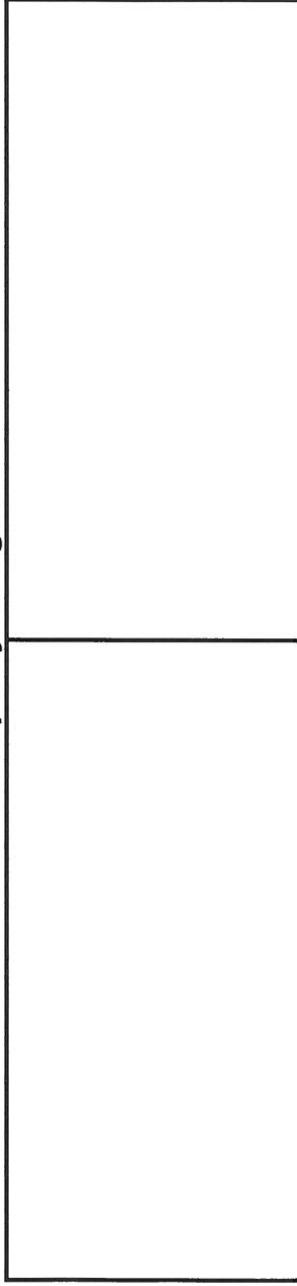
Legal Description

5504.00

Narrative Description of Property

This property contains 11.590 acres of land mainly classified as AUTO SS with a(n) AUTO DEALR style building, built about 2008 , having CONC BLOCK exterior and TAR+GRAVEL roof cover, with 0 unit(s), 0 room(s), 0 bedroom(s), 0 bath(s), 12 half bath(s).

Property Images



Unofficial Property Record Card - Littleton, MA

General Property Data

Parcel ID U07 28 0	Account Number 0
Prior Parcel ID --	
Property Owner 235 GREAT ROAD LLC	Property Location 235 GREAT RD
Mailing Address 198 GREAT ROAD	Property Use OFFICE
	Most Recent Sale Date 11/23/2010
	Legal Reference 55891-531
City ACTON	Grantor ASHE WILLIAM J & HANNON HELEN,
Mailing State MA	Sale Price 650,000
ParcelZoning	Land Area 1.524 acres

Current Property Assessment

Card 1 Value	Building Value	Xtra Features Value	Land Value	Total Value
269,700	2,900		254,400	527,000

Building Description

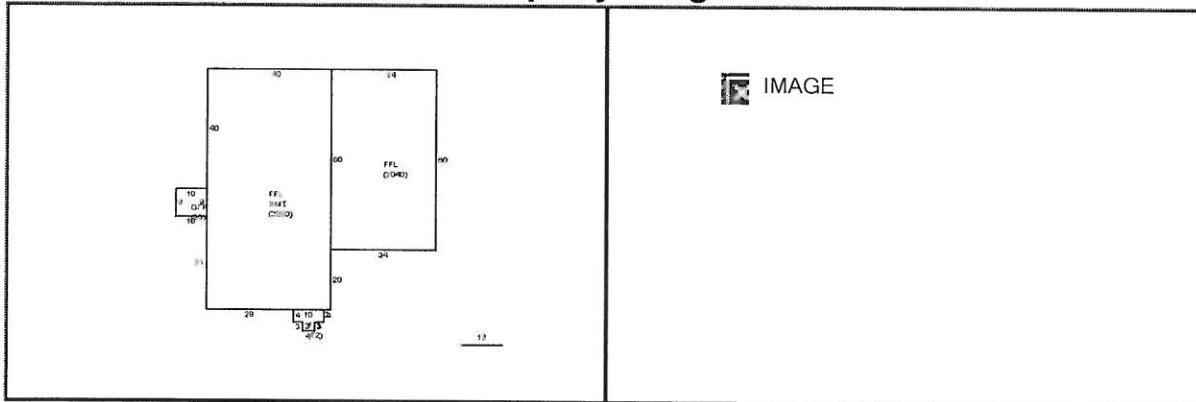
Building Style OFFICE	Foundation Type CONCRETE	Flooring Type CARPET
# of Living Units 2	Frame Type WOOD	Basement Floor N/A
Year Built 1955	Roof Structure FLAT	Heating Type FORCED H/A
Building Grade AVERAGE	Roof Cover TAR+GRAVEL	Heating Fuel GAS
Building Condition Average	Siding STUCCO	Air Conditioning 100%
Finished Area (SF) 6892	Interior Walls DRYWALL	# of Bsmt Garages 0
Number Rooms 0	# of Bedrooms 0	# of Full Baths 0
# of 3/4 Baths 0	# of 1/2 Baths 4	# of Other Fixtures 7

Legal Description

Narrative Description of Property

This property contains 1.524 acres of land mainly classified as OFFICE with a(n) OFFICE style building, built about 1955 , having STUCCO exterior and TAR+GRAVEL roof cover, with 2 unit(s), 0 room(s), 0 bedroom(s), 0 bath(s), 4 half bath(s).

Property Images



IMAGE

Disclaimer: This information is believed to be correct but is subject to change and is not warranted.

2



Bk: 49688 Pg: 16 Doc: DEED
Page: 1 of 2 08/28/2007 12:13 PM

Return to:
Wilson & Orcutt, P.C.
201 Great Road
Acton, MA 01720

QUITCLAIM DEED

Robert R. Moran, Trustee of Mishrob Trust u/d/t dated January 25, 1979 recorded in Middlesex South District Registry of Deeds at Book 13632, Page 735 for consideration of Less than One and 00/100 (\$1.00) Dollar grants to 225 Great Road, LLC, a Massachusetts Limited Liability Company with a business address of 198 Great Road, Acton, Middlesex County, Massachusetts 01720 with QUITCLAIM COVENANTS

225 Great Road, Littleton, MA

Parcel A

A certain parcel of land with the buildings thereon known as 225 Great Road in Littleton, Middlesex County, Massachusetts, more particularly shown on a plan of land entitled, "Plan of Land in Littleton, Mass." Owned by J. Fred Herpy and Ruth G. Herpy by Harlan E. Tuttle, dated December 9, 1971, recorded with said Deeds, Book 12131, Page 208, bounded and described as follows:

Southwesterly	by Great Road by two lines measuring six hundred two and 87/100 (602.87) feet and sixty-five and 14/100 (65.14) feet respectively;
Northwesterly	two hundred (200) feet and Southwesterly eighty-six and 50/100 (86.50) feet by land now or formerly of Charles Richard Moffie;
Northwesterly	three hundred seventy and 35/100 (370.35) feet by land now or formerly of John N. and Edna M. Robinson;
Northeasterly	by the same by seven lines measuring one hundred forty-eight and 49/100 (148.49) feet, one hundred forty-four and 97/100 (144.97) feet, eleven and 40/100 (11.40) feet, one hundred fifty-two and 75/100 (152.75) feet, eighty-five and 67/100 (85.67) feet, seventy two and 77/100 (72.77) feet and twelve (12) feet, respectively; and
Southeasterly and Easterly	by land now or formerly of Francis W. and Dorothy K. Flagg by six lines measuring fifty-three and 29/100 (53.29) feet, sixty-three and 97/100 (63.97) feet, forty-seven and 23/100 (47.23) feet, fifty-seven and 14/100 (57.14) feet, ninety and 50/100 (90.50) feet, and fifty-one and 85/100 (51.85) feet.

Property Description: 225 Great Road, Littleton, MA 01460

The above premises are conveyed subject to all easements, covenants and restrictions of record and subject to the rights of existing tenants occupying the premises.

PARCEL B

A certain parcel of land situated on the Northeasterly side of Great Road, Littleton, Massachusetts, being shown as Lot A on a "Plan of Land in Littleton, Mass., prepared for David W. and Richard K. Flagg, Trustees of the Dorothy K. Flagg, Trust, 201 Great Road, Littleton, MA," Goldsmith, Prest & Ringwall, Inc., dated January 15, 1999 and recorded with Middlesex South District Registry of Deeds as Plan No. 137 of 1999, Book 29785, Page 506.

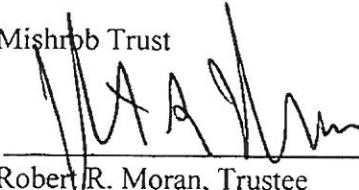
Said Lot A contains 5.2 acres, more or less according to said plan.

The above premises are conveyed subject to all easements, covenants and restrictions of record.

The undersigned trustee hereby certifies that (i) the said trust is in full force and effect as of the date hereof, has not been terminated and that there are no amendments or modifications pertaining to said trust except such as are recorded at the Middlesex South District Registry of Deeds; (ii) that the undersigned is the sole trustee of said trust and that he/she has not been removed by a vote of the beneficiaries, and that he/she has not resigned as trustee as of the date hereof; and (iii) that the undersigned has been specifically directed by the beneficiaries of the Trust to transfer the trust's property as set forth in the within deed and to sign, execute and deliver all other documents necessary to effectuate the same.

Being the same premises conveyed to the Grantor by deed dated February 7, 2006 recorded with Middlesex South District Registry of Deeds at Book 46942, Page 430.

Witness my hand and seal this 28 day of June, 2007.

By: 
Robert R. Moran, Trustee

COMMONWEALTH OF MASSACHUSETTS

REGISTRY OF DEEDS
SOUTHERN DISTRICT
ATTEST:


REGISTER

Middlesex, ss

June 28, 2007

On this 28 day of June, 2007, before me, the undersigned Notary Public, personally appeared Robert R. Moran, Trustee of Mishrob Trust, proved to me through satisfactory evidence of identification which was a Massachusetts driver's license to be the person whose name is signed on the preceding documents, and acknowledged to me that he/she signed it voluntarily for its stated purpose.



Notary Public: Daniel B. Greenberg
My Commission Expires: September 18, 2009



DANIEL B. GREENBERG
Notary Public
Commonwealth of Massachusetts
My Commission Expires
September 18, 2009

2014 00020058
 BK: 63283 Pg: 488 Doc: DEED
 Page: 1 of 2 02/18/2014 01:00 PM

(2)

MASSACHUSETTS EXCISE TAX
 Southern Middlesex District ROD # 001
 Date: 02/18/2014 01:00 PM
 Ctr# 200489 15787 Doc# 00020058
 Fee: \$1,178.78 Cons: \$258,100.00

QUITCLAIM DEED

235 GREAT ROAD, LLC, a duly organized and existing Massachusetts Limited Liability Company with a principal business address of 184 Great Road, Acton, Massachusetts 01720,

In consideration of Two Hundred Fifty Eight Thousand One Hundred and no/100 (\$258,100.00) Dollars grants to

225 GREAT ROAD, LLC, a duly organized and existing Massachusetts Limited Liability Company with a principal business address of 184 Great Road, Acton, Massachusetts 01720,

with QUITCLAIM COVENANTS,

the land in Littleton, Middlesex County, Massachusetts with the buildings thereon now known as and numbered 235 Great Road consisting of two adjoining parcels situated on the northeasterly side of said Great Road more particularly described as follows:

FIRST PARCEL: being the parcel shown as a lot containing about 28,752 square feet on the plan entitled, "Land in Littleton owned by J. Fred Herpy and Ruth G. Herpy," by Horace F. Tuttle, C.E. dated November 5, 1955, recorded with the Middlesex South District Deeds in Book 8635 Page 541.

SECOND PARCEL: being the adjoining parcel containing about 34,565 square feet shown as Parcel A on the plan entitled, "Plan of Land in Littleton, Mass. owned by John N. Robinson, Edna M. Robinson" dated August 16, 1972, drawn by Harlan E. Tuttle, Surveyor, which plan is recorded with said Deeds in Book 12297 Page 292.

Being the same premises conveyed by deed of William J. Ashe and Helen Hannon, Trustees of the B. Ashe Realty Trust (u/d/t dated 1/18/2000 recorded with said Registry of Deeds at Book 31101, Page 126) which deed is dated November 22, 2010 and is recorded with the Middlesex South District Registry of Deeds in Book 55891, Page 531.

Executed under seal this 14 day of February, 2014.

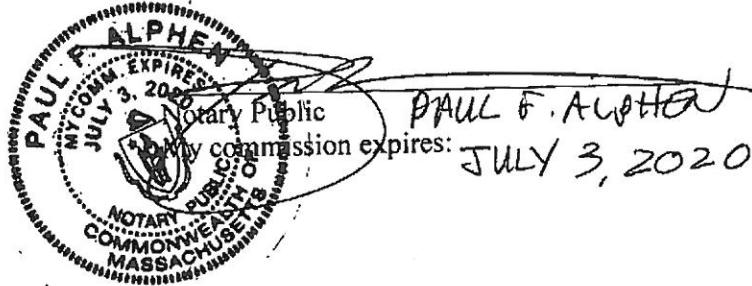
235 GREAT ROAD, LLC

Lauri Maxner
Lauri Maxner, Authorized to execute
deliver and record any recordable instrument
purporting to affect an interest in real property.

COMMONWEALTH OF MASSACHUSETTS

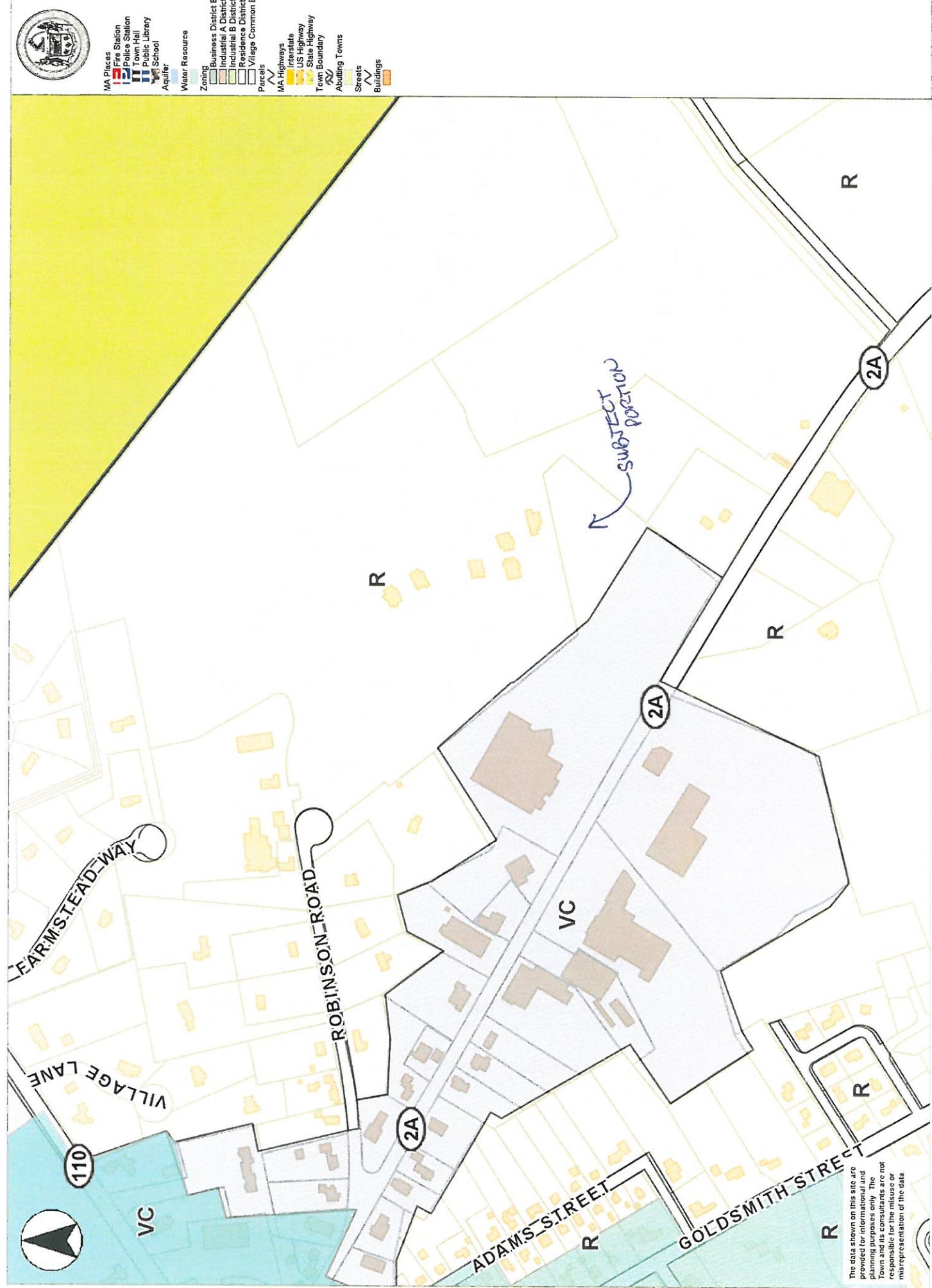
Middlesex, ss

On this 14 day of February, 2014, before me, the undersigned notary public, personally appeared Lauri Maxner proved to me through satisfactory evidence of identification, which was personally known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as a party authorized to execute, deliver and record any recordable instrument purporting to affect an interest in real property for 235 GREAT ROAD, LLC.





MA Places
Fire Station
Police Station
Town Hall
Public Library
School
Aquifer
Water Resource
Zoning
Business District B
Industrial A District -A
Industrial B District -B
Residence District R
Village Common Busi
Parcels
MA Highways
Interstate
US Highway
State Highway
Town Boundary
Abutting Towns
Streets
Buildings



The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.

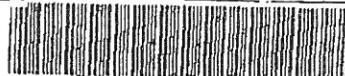
Printed on 12/09/2014 at 03:10 PM

1140 ft
570 ft



Google earth

© 2014 Google



2006 00024768

Bk: 46942 Pg: 424 Doc: DECIS
Page: 1 of 5 02/08/2008 12:33 PM

PLANNING BOARD
P.O. BOX 1305
Littleton Massachusetts 01460

MAJOR COMMERCIAL USE SPECIAL PERMIT
ORCHARD SQUARE

June 24, 2005

APPLICATION:

MAJOR COMMERCIAL USE SPECIAL
PERMIT

PROPERTY LOCATION:

209, 220, 225 Great Road
South Side, Map U-11, Parcel 4-4
North Side, Map U-6, Parcel 1 and 2-2

DESCRIPTION:

Construct +/- 32,133 square feet of mixed use retail space with 221 parking spaces and associated site improvements on the South side and +/- 62,000 square feet of retail space, auto dealership and related improvements on the North side, all as shown on the REFERENCE PLANS.

APPLICANT/OWNER:

Empire Management Corporation
171 Great Road
Acton, MA 01720

ENGINEERS:

Waterman Design Associates
31 East Main Street
Westborough, MA 01581

Attest to True Copy
Janet A. Wheaton
Janet A. Wheaton
Town Clerk
January 2006

DATES OF LEGAL NOTICES:

July 22 and 29, 2004

DATES OF HEARING:

August 12 and 26; October 14, December 9, 2004;
January 27, February 24, March 24, April 28; May 5, May 26, and June 23, 2005

MEMBERS PRESENT:

Janet LaVigne, Steve Wheaton, Gregg Champney,
Mark Montanari, and Richard J. Dennis, Jr.

REFERENCE PLANS: "Special Permit and Site Plan Review for Orchard Square in Littleton, Massachusetts (Middlesex County)", Prepared for Empire Management Corporation, 171 Great Road, Acton, MA 01720 by Waterman Design Associates, 31 East Main Street, Westborough, MA 01581. Consisting of Sheets 1-18 dated July 1, 2004 as amended through May 26, 2005, plus revision H; Photometrics Plan prepared by

PL 100-REF 42003-11

PLEASE RETURN TO:

LANDAMERICA

150 FEDERAL STREET, SUITE 200

BOSTON, MA 02110

ATTN: 100 FILE NO. 8611

Major Commercial Use Special Permit – Orchard Square – Great Road

Boston Light Source; Evidence of future compliance plan; two Overall plans; and three additional plans dated April 7, 2005 prepared by GEOD Consulting, 24 Ray Street, Suite 105, Burlington, MA 01803 consisting of all sheets as enumerated below:

Title Sheet/Signature Page

1. Compiled Existing Conditions Plan, Orchard Square (South)
2. Compiled Existing Conditions Plan, Orchard Square (North)
3. Utility Plan, Orchard Square (South)
4. Utility Plan, Orchard Square (North)
5. Grading and Drainage Plan, Orchard Square (South)
6. Grading and Drainage Plan, Orchard Square (North)
7. Layout and Materials Plan, Orchard Square (South)
8. Layout and Materials Plan, Orchard Square (North)
9. Planting and Lighting Plan, Orchard Square (South)
10. Planting and Lighting Plan, Orchard Square (North)
- 11A. Turning Path Exhibit, WB-50 Tractor Trailer, Orchard Square (South)
- 11B. Turning Path Exhibit, Littleton Ladder Truck, Orchard Square (South)
- 12A. Turning Path Exhibit WB-50 Tractor Trailer, Orchard Square (North)
- 12B. Turning Path Exhibit Littleton Ladder Truck, Orchard Square (South)
13. Details
14. Details
15. Details
16. Details
17. Details
18. Details and Sight Distance Exhibit

Photometrics Plan (prepared by Boston Light Source)

Evidence of Future Compliance Plan, 11x17 inch plan revised 3/25/05

Overall Grading Drainage and Utility Plan, dated May 26, 2005, 30x42 inch sheet

Overall Layout Materials and Planting Plan, dated May 26, 2005, 30x42 inch sheet

C-1. Highway Layout Plan, Conceptual Design

C-2. WB-50 (Tractor Trailer), Access Turning Path

C-3. WB-50 (Tractor Trailer), Egress Turning Path

The Littleton Planning Board held a public hearing on the above dates to consider the application of Empire Management Corporation for Special Permit and Site Plan Review under the Major Commercial or Industrial Use, Article XVIII, Sections 173-88 and Article IV, Section 173-16 of the Town of Littleton Code for:

Construction on the South Side of approximately 32,133 square feet of mixed-use retail space with 221 parking spaces and associated site improvements and construction on the North side of approximately 62,000 square feet of retail space and automobile dealership facility, consisting of (2) buildings, parking, display area and associated site improvements.

The Public Hearing was closed on June 23, 2005. The Board made the following specific findings regarding the proposed use at the site:

Major Commercial Use Special Permit – Orchard Square – Great Road

1. Roads, water, and drainage will adequately serve the site with the conditions outlined below;
2. No planned process or unplanned contingency will result in undue hazard or contamination of the air, land, or water resources;
3. Visual compatibility is assured by the landscaping proposed on the site; the natural buffer to remain, and the architectural character of the proposed development;
4. The level of threat to environmental resources is minimized;
5. Proposed buffering and screening from nearby uses of different character is adequate;
6. No significant nuisance, hazard or congestion will be created; and
7. There will be no substantial harm to the neighborhood or derogation from the intent of the Zoning Bylaws; and
8. The developer has generously offered the donation of two police cruisers for use by the Town; the Planning Board is pleased to acknowledge this donation on behalf of the townspeople.

At the meeting held June 23, 2005, a motion was made by Mrs. LaVigne and seconded by Mr. Wheaton to **grant** the Special Permit as listed above with the following conditions:

1. Operations and maintenance of the stormwater facilities shall comply with the "Operations and Maintenance Plan for Stormwater Facilities, Orchard Square (North & South), Littleton Massachusetts (July 2004) on file in the Planning Board office.
2. Prior to commencement of construction of the South side project, an agreement with the abutting property owner shall be obtained, which allows connection of the two abutting parking lots [Donelan's Supermarket and Orchard Square].
3. Safety and fire access around the various buildings shall be maintained at all times and under all conditions.
4. The project is approved with 221 parking spaces on Orchard Square South and 199 parking spaces on Orchard Square North.
5. All lighting is to conform to Littleton bylaws and applicable building codes.
6. Prior to issuance of the first building permit for construction of the project, a Traffic & Pedestrian Mitigation Fee, in the form of a Van for the Council On Aging shall be due to the Town of Littleton.
7. As a condition of this approval, the Applicant agrees to join with the Town of Littleton and its Planning Board in a joint motion for dismissal with prejudice of

Major Commercial Use Special Permit – Orchard Square – Great Road

any and all lawsuits involving the Planning Board and relating to the previously proposed Andrews Crossing development.

8. Any changes to the plans as a result of unforeseen circumstances, previously undiscovered site conditions, or other construction issues, shall be submitted to the Planning Board for determination if said change is substantial. Insubstantial or inconsequential changes may be made to this permit by a majority vote of the Planning Board.
9. Any and all work performed on Great Rd. shall be consistent with plans and permits to be approved by Mass Highway Department.
10. Any hazardous materials removed from the site shall be handled and disposed in accordance with State and Federal Regulations.
11. This Special Permit shall not become effective until it is recorded at the Registry of Deeds.
12. This Special Permit shall lapse twenty-four (24) months following the grant thereof (except such time required to pursue or await the determination of an appeal referred to in M. G. L. c 40A, Section 17) if a substantial use or construction has not sooner commenced, except for good cause. Commencement of construction of one building shown on the plan approved hereby shall constitute substantial use of this Special Permit.

The Board voted 5 to 0 to **GRANT** the Special Permit with the above conditions.

Appeals, if any, shall be made pursuant to Section 17 of Chapter 40A, Massachusetts G.L., and shall be filed within 20 days after the date this decision is filed with Town Clerk.

Signed:


Richard J. Dennis, Jr., Clerk

Date Filed with Town Clerk: June 24, 2005


Linda A. Knupp
Town Clerk

Major Commercial Use Special Permit – Orchard Square – Great Road

TOWN CLERK CERTIFICATION:

To Whom It May Concern:

I, Linda A. Knupp, Clerk of the Town of Littleton hereby certify that twenty days have elapsed since the filing of this decision by the Planning Board to grant this Special Permit and that no appeal concerning said decision has been filed, or that any appeal that has been filed has been dismissed or denied.

Linda A. Knupp
Town Clerk
Littleton, Mass.

January 24, 2006
Date

Essex C. Bunn
Attn: Middlesex S. Register

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 (sq. 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	15 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

¹ Permitted residential use shall observe requirements of the residence district.

² Thirty (30) feet or one and one-half (1½) times the building height, whichever is greater.

³ Twenty (20) 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 eighty (80) feet to a main public way or nearer than fifty (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 one hundred fifty (150) feet; when the public way is a limited-access highway, the setback shall be twenty (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 twelve by twelve (12 x 12) feet in plan and ten (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 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 fifty (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, twenty-five (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 four-tenths (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 six-tenths (0.6) times that combined area in business districts.

⁸ If more than one (1) street abuts the lot, then the additional street setback may be reduced one (1) foot for every two thousand (2,000) square feet under forty thousand (40,000) square feet of lot area, but to not less than fifteen (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 fifty feet (50'); 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.

