

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.

ZBA Case No. _____

857A Site address 363 King St

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
7/27/15 11:30 am

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ 300⁰⁰ Check # 132

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.

R. Lord

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 Marylou Bizzardi Date: 7/21/15

Print Name 363 King St.
Address Littleton, MA 01460
Town, State, Zip

Phone # 978-496-4211
Email Address delone@integra-companies.com

Deed Reference: Bk 1998 Page 310

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

Signature _____ Date _____
Print Name (if different from petitioner) Same as petitioner
Address (if different from petitioner) 363 King St. Littleton, MA

Phone # _____
Email _____

ASSESSOR MAP & PARCEL NUMBER U181030

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

Check box if applicable

☐ AQUIFER DISTRICT

☒ WATER RESOURCE DISTRICT

FILING FEES
Residential Property \$200 to Town of Littleton
Commercial Property \$350 to Town of Littleton
Comprehensive Permit \$1000 + \$100/unit over 10 units

ADDITIONAL FEES (all applications)
- \$75 to Comm of Mass-recording fee
- \$25 to Town of Littleton-abstract list
Legal Notice publication fee due prior to opening hearing

ZBA Case No. _____

857A

Site address

363 King Street

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 _____ Date of order / decision _____

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.

Signature _____

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.c.40B

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? 173-31

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 Mary Lou Rizzardi

Print name MARY LOU RIZZARDI

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

WE, DWIGHT C. LONG and DOUGLAS E. LONG,

of Littleton, Middlesex County, Massachusetts,

in consideration of LESS THAN ONE HUNDRED and 00/100 (\$100.00) DOLLARS

grant to DWIGHT C. LONG and MARY LOU RIZZARDI, husband and wife as tenants by the entirety

of 363 King Street
Littleton, MA 01460

with quitclaim covenants

the land in

A certain parcel of land, with the buildings thereon, situated in said Littleton, on the SOUTHEASTERLY side of the main road leading from Littleton Centre to Littleton Common, now known as King Street, bounded and described as follows:

BEGINNING at land now or formerly of Thomas Marshall and running SOUTH-WESTERLY on said road, seven (7) rods, to a stone bound; thence SOUTHEASTERLY on land now or formerly of Marianna R. Hartwell, eleven (11) rods, to a stone bound, thence NORTHEASTERLY on land now or formerly of said Marianna R. Hartwell, six (6) rods, to the corner where land now or formerly of Caroline M. Whitney and Thomas Marshall meet; thence NORTHERLY on land now or formerly of said Marshall, one (1) rod; thence NORTHWESTERLY on land now or formerly of said Marshall, ten (10) rods, to the point of beginning.

Containing one-half acre, more or less.

Being the same premises to us conveyed by Deed of Robert E. Wilson, et ux, dated July 31, 1989 and recorded with Middlesex South District Registry of Deeds in Book 19981, Page 310.

EXHIBIT A

ALL THAT CERTAIN PARCEL OF LAND IN LITTLETON, MIDDLESEX COUNTY, COMMONWEALTH OF MA, AS MORE FULLY DESCRIBED IN BOOK 22955 PAGE 311 ID# U18-103, BEING KNOWN AND DESIGNATED AS A METES AND BOUNDS PROPERTY

BEING THE SAME FEE SIMPLE PROPERTY CONVEYED BY QUIT CLAIM DEED FROM DWIGHT C. LONG and DOUGLAS E. LONG TO DWIGHT C. LONG and MARY LOU RIZZARDI HUSBAND AND WIFE TENANCY BY ENTIRETY, DATED 02/26/1993 RECORDED ON 03/03/1993 IN BOOK 22955, PAGE 311 IN MIDDLESEX COUNTY RECORDS, COMMONWEALTH OF MA.

Executed as a sealed instrument this 26th day of February, 1993

DWIGHT C. LONG

DOUGLAS E. LONG

The Commonwealth of Massachusetts

MIDDLESEX,

February 26,

19 93

Then personally appeared the above named

MSB 03/03/93 01:48:12 508 25.00
Prop. Address: 363 King St., Littleton, MA 01460

Request for Setback Variance Narrative
363 King Street
Littleton, Massachusetts

July 21, 2015

Variance Request

Dwight and Mary Lou Long would like to formally request the consideration of two variances. One is for a stone retaining wall where a section of it exceeds 4' in elevation within 1' of the property line. The second is to allow a pool shed to be constructed 5' from the property line as part of this landscape renovation/accessibility improvement project.

Existing Conditions

This property is located east of King Street, west of Baldwin Hill Road and northeast of the Morgan property in Littleton. This is a single family home built in 1900 with an attached barn and paved driveway. The landscaped portion of the property is stepped into 3 tiers to accommodate the change in elevation from King Street to the property line at the abutting sheep pasture in back. The existing rear yard landscape consists of a deteriorating above ground swimming pool and deck built into an eroding slope, lawn, stone terrace, garden and multiple staircases from the upper and middle tier landscape to the lower pool level.

Proposed Design

The proposed project is a residential landscape reconstruction including a new in-ground pool, stone pool deck, pool shed for shelter from the sun/storage, planting beds, lawn, grading and slope stabilization by a natural stone block retaining wall overseen by a structural engineer. The locations on the lot where we are requesting the two variances is the along the rear setback against the sloping sheep pasture, and along the east side setback facing into woodland. The proposed elements that need variances are a stone retaining wall, and a proposed pool shed. The wall varies in height from zero feet to nine feet along the east and southern property line. The pool shed and the wall are designed within the 10' setback designated for accessory structures.

The Long family has owned and lived on this property for 27 years, refurbished the antique farmhouse and is looking to refurbish the landscape as well. Their intent is to age in place in their beautiful home. That being said, Mrs. Long now has Multiple Sclerosis and as part of the landscape reconstruction we have designed the project to allow ADA accessibility from the

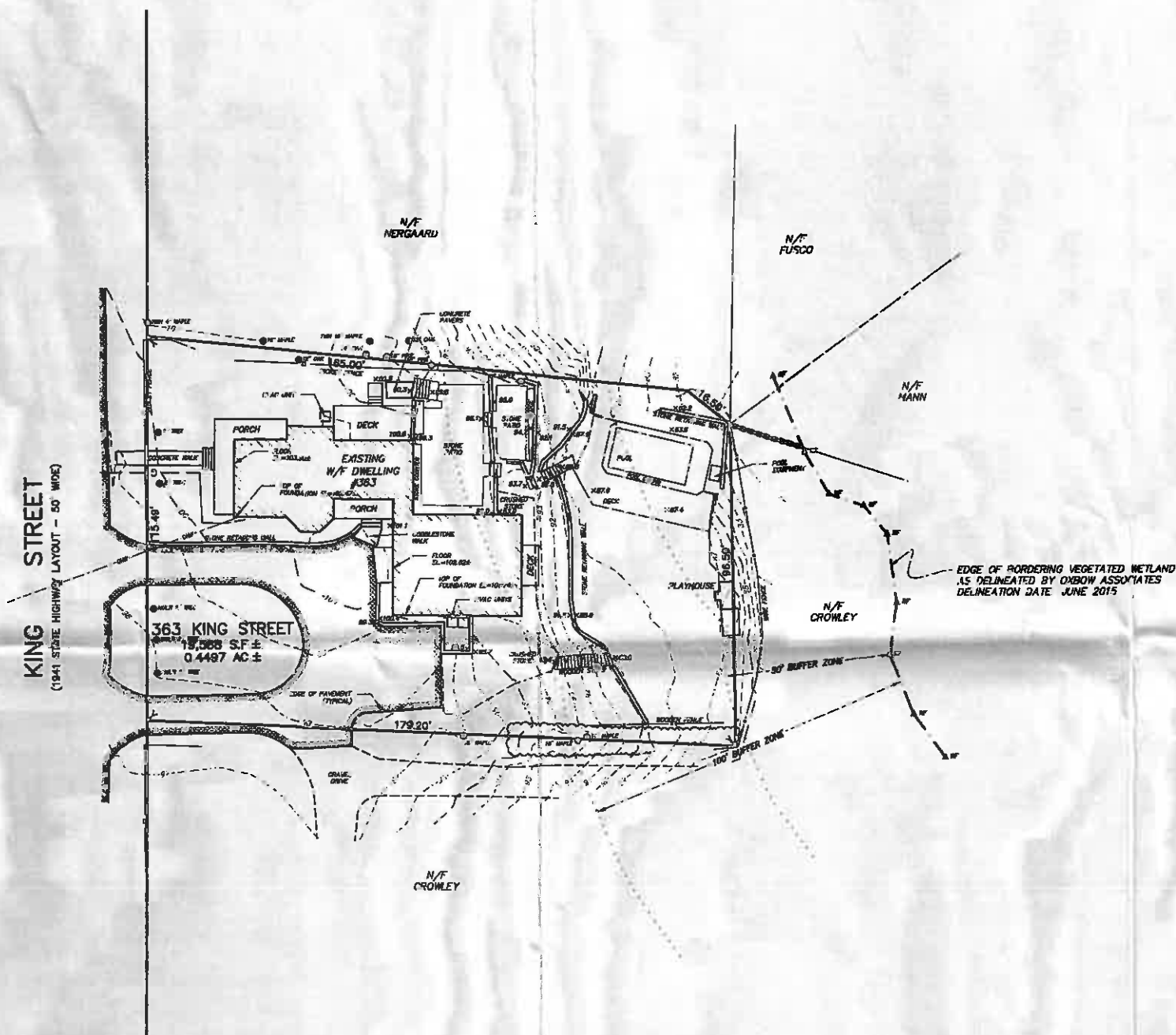
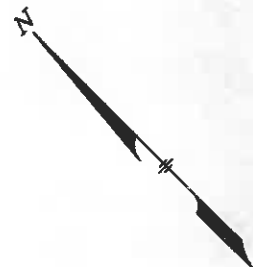
house to all three elevations of the landscape. This design will allow Mrs. Long and her family access to the pool area for recreation and exercise into the future.

In order to gain handicap accessibility, we have proposed these elevations for the landscape and pool. These elevations will allow accessibility for the above mentioned activities, and to achieve them the existing elevation needs to be raised. This can only be done by incorporating a retaining wall 1' inside the property line. The retaining wall material will be antique granite blocks, and was chosen to remain in keeping with the historical nature of the property.

As an adjunct to the pool a pool shed is proposed for pool equipment and storage at the far end of the pool. The location for the shed has been considered at other locations, but we have been unable to find another location that is suitable and that will not have a major impact on the accessibility and/or safety of the property. The driving factors for this proposed shed location is to ensure that there is no shielding of the view of the pool area from any place in the yard while children and grandchildren are at play. As part of that Victorian styled pool house a shade pergola has been attached to provide shade for Mrs. Long. MS exposes Mrs. Long to a higher risk of overheating in the sun and requires a protected shade area where she can sit near the pool. In addition the pool shed will house the pool controls and equipment where it will be easily accessible for Mrs. Long. She will need to access it for maintenance and daily use. Raising the grade of the pool also allows us to minimize the number of steps to be negotiated up to the mid-tier stone dining terrace, the new design will allow for 6 steps. The yard in its present state has 3 sets of steps totaling 14.

As of Monday, July 13, 2015 the Town of Littleton Conservation Commission reviewed and approved the designed project within the Bordering Vegetated Wetland behind the property in the sheep pasture along a drainage swale exiting a culvert. The installation of the retaining wall and subsequent slope stabilization was key in the commission's decision.

We appreciate your consideration of this application. The resulting changes to this property will greatly enhance its appearance to the surrounding neighbors and make it possible for the Longs to continue to stay in their home and have use of and enjoy all aspects of their property into the future.



LEGEND:

- N/F NOW OR FORMERLY
- OVERHEAD WIRES
- TREE
- TREE LINE
- UTILITY POLE
- GG+ GAS GATE
- W+ GAS SERVICE (BURIED)
- WG+ WATER GATE
- W- WATER SERVICE (BURIED)
- DMH DRAIN MANHOLE
- D- SUB-SURFACE DRAIN LINE
- EXISTING CONTOUR
- EXISTING CONTOUR
- LIGHTPOLE
- WETLAND FLAG
- SPOT ELEVATION
- STONE WALL
- EDGE OF PAVEMENT

UTILITY NOTE:

ALL UNDERGROUND UTILITIES SHOWN HERE WERE COMPILED ACCORDING TO AVAILABLE RECORD PLANS FROM VARIOUS UTILITY COMPANIES AND PUBLIC AGENCIES AND ARE APPROXIMATE ONLY. ACTUAL LOCATIONS MUST BE DETERMINED IN THE FIELD BEFORE DESIGNING, EXCAVATING, BLASTING, INSTALLING, BACKFILLING, GRADING, PAVEMENT RESTORATION OR REPAIRING. ALL UTILITY COMPANIES, PUBLIC AND PRIVATE, MUST BE CONTACTED INCLUDING THOSE IN CONTROL OF UTILITIES NOT SHOWN ON THIS PLAN. SEE CHAPTER 370, ACTS OF 1983 MASS. WE ASSUME NO RESPONSIBILITY FOR DAMAGES INCURRED AS A RESULT OF UTILITIES OMITTED OR INACCURATELY SHOWN. BEFORE PLANNING FUTURE CONNECTIONS THE APPROPRIATE PUBLIC UTILITY ENGINEERING DEPARTMENT MUST BE CONSULTED. DIG SAFE TELEPHONE No. 1-888-344-7233.

RECORD OWNER

DWIGHT C. LONG
MARY LOU RIZZARDI
363 KING STREET
LITTLETON, MA

REFERENCE

MIDDLESEX REGISTRY OF DEEDS
SOUTH DISTRICT
DEED BOOK 22955 PAGE 311

ZONING DISTRICT

RESIDENCE

DATUM

ELEVATIONS SHOWN ON THIS PLAN REFER TO AN ASSUMED BASE.

TOPOGRAPHIC PLAN OF LAND IN

LITTLETON, MASSACHUSETTS
(MIDDLESEX COUNTY)

FOR: ONYX
SCALE: 1"=20' DECEMBER 15, 2014

STAMSKI AND McNARY, INC.
1000 MAIN STREET ACTON, MASSACHUSETTS
ENGINEERING - PLANNING - SURVEYING

0 10 20 40 60 80 FT

(5343work.dwg) 363 King Street SM-5343

LANDSCAPE MASTER PLAN

LONG RESIDENCE
363 King Street
Littleton, Massachusetts

Suzanne Hopkins McDonough, R.L.A.
Landscape Architecture
Framingham, Massachusetts
508-561-0395

