



Office of the
LITTLETON BOARD OF APPEALS
Littleton, Massachusetts 01460

received
10/10/13 11pm
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Petitioner: KIMLOCH FARMS, LLC
Case No: 783A
Date Filed: HEARING - Nov 21, 2013

The Littleton Board of Appeals conducted a public hearing on November 21, 2013, at 7:45 P.M. at the Shattuck Street Municipal Building, Shattuck Street, Littleton, on a request from the Applicant to allow a change to the 40B permit granted previously. The hearing was posted but no notice was given by publication or by mail. Present and voting: Sherrill R. Gould, Chairman, John Cantino, and Jeff Yates, Members and Alan Bell, and Rod Stewart, Alternates.

The Petitioner presented a proposal to finish the interior attic space, adjacent to a bedroom, on one of the market units at 116 Goldsmith Street, citing as a reason that a proposed purchaser of the home would like to create a bedroom study combination for an adult child occupant. The Board was requested to consider this request as an insubstantial change and to act on it without a posted hearing. The 40B permit and decision for this project requires any change in bedroom count to be voted on by the Board. The creation of a finished study would effectively create an additional bedroom.

The Board heard from the petitioner, the Building Inspector and Town Counsel. The Regulations provide, among other criteria, that a "change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10%" is considered an insubstantial change. The petitioner argued that the addition of one bedroom in one unit, when compared with the total bedrooms allocated to the project was less than 10%.

The Board disagreed and determined that if all of the homes were allowed an additional bedroom, the resulting bedroom count for the project would increase by more than 10%. Town counsel advised that prior to acting on the petition, the Board first had to determine whether the change was substantial, which would require notice and public hearing. The Board further discussed the original approval process, stressing that the project was approved with a limited number of bedrooms, since it already intensified traffic and density on a small lot. The Board stated that additional bedrooms would encourage increased traffic and create significant safety issues, which the abutters should have a chance to address at a hearing.

As a result of the resistance of the Board to accept the proposed changes without a public hearing, the Petitioner then modified the request to seek permission to finish the attic space with heat and insulation, more or less as loft space, but without the addition of walls and doors which, if erected, would constitute a separate living area. The Board agreed that this modified request was insubstantial and closed the hearing.

No abutters appeared in opposition. The Board reviewed the plans as well as the Special Permit Decision and the recommendations from Town Counsel.

FINDINGS: The Board found that heating and insulating interior space within the structure without constructing walls and doors to create a separate living area was an insubstantial change.

DECISION: The Board voted to allow a modification to the Comprehensive Permit to allow the attic space to be finished with heat and insulation on the condition that any walls already constructed would be removed with the exception of 36' high half walls on either side of the stairs for safety.

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: Deanne Yoder

Date: 12/10/2013

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