

BOARD USE ONLY

Case No.: 804A

Filing Date: 3/20/12
1PM (a)

LITTLETON BOARD OF APPEALS
LITTLETON, MASSACHUSETTS 01460

The undersigned, having standing in this matter, hereby petitions the Littleton Board of Appeals for: **VARIANCE**, **SPECIAL PERMIT** and/or **APPEAL** (check all that apply) as specified below and as provided for by the Zoning Bylaw of the Town of Littleton.

1. LOCATION OF PROPERTY: Please print

A. Street Address: 2 Spectacle Pond Road

B. Assessors Map and Parcel Number: R22 9-1

Zoning District 1A Aquifer District Water Resource District

C. Deed Reference: 40757/149

2. LITTLETON ZONING BYLAW SECTION(S):

Variance Special Permit 173-79 Appeal

3. STATE BRIEFLY REASONS FOR PETITION (Use additional sheets if necessary):

Equipment operations is necessary in Littleton Industrial district to operate in compliance with local, state & federal regulations.

4. PETITIONER(S): please print StoneyARD, Inc.

Owner Tenant Licensee Agreed Purchaser Agent Other

Note: If petitioner is not the owner, furnish written authorization from owner.

John C. Coker President

3/15/12

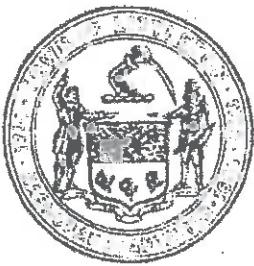
Signature(s)

Date

Mail Address: 2 Spectacle Pond Rd Littleton MA 01460
Street Town State Zip Code
Telephone Number: (978) 742-9800 X 14

Town Clerk Use only:

Filing fee paid: \$ 75.00 500211 Date: March 20, 2012
350.00 500210



BUILDING COMMISSIONER

ZONING OFFICER

P O BOX 1305
LITTLETON, MA 01460
VOICE (978) 952-2308
FAX (978) 952-2321

file

R23-9

Friday, April 03, 2009

The Stoneyard
2 Spectacle Pond Road
Littleton, MA 01460

Re: Noise
Rock storage onsite

Atten: David Croteau

Dear Mr. Croteau,

The purpose of this letter is two-fold, first to address noise and second to address use of site.

Issue #1

The Littleton Police Department has begun receiving complaints regarding noise at your facility. Specifically, the complaint addresses "second shift" noise involving inside work with the overhead door open and outside "loader" activity. My records show that these issues have occurred on and off over the past few years dating to about 2004.

As such this office has conducted informal daytime noise readings from a location in the Mobile Home Park as close to the property line as possible separating your property from the park. Readings were taken on March 19, 20, 23, 24 and 25 at approximately 10:30am for a period of approximately 30 minutes.

Pursuant to the Littleton Zoning Bylaws Article XVII, the instrument used is a digital sound level meter manufactured by EXTECH set at the A scale referred to two ten-thousands (0.0002) dynes per square centimeter in conformance with the American National Standards Institute Standard S 1.4- 1971, Type 2. Readings were taken using the "fast response" setting of the meter.

The purpose of the daytime readings was to set a baseline decibel level for varying types of noise produced at your facility. It can be assumed that the same activity at night produces equivalent decibel intensity. Each reading was then compared to the maximum allowed levels established in §173-80 and 173-82. Note in this instance the property is also the district boundary separating an IA district from a B district. The requirements of the more restrictive B district were used. Types of noise includes ambient, hammering, talking, forklift (sometimes two forklifts / loader) and sporadic spiked noise.

Average daytime readings are as follows:

	March 19, 2009	March 20, 2009 ¹	March 23, 2009	March 24, 2009	March 25, 2009
Ambient	48db – 53db Continuous	43db – 45db Continuous	43db Continuous	41db Continuous	38db – 42db Continuous
Hammering					47db – 49db Impulsive
Talking					39db – 43db Dominant
Forklift/Loader	60db 68.7db ² Impulsive	54db ³ Dominant	50db – 53db Impulsive / dominant	50db – 63db Impulsive	50db – 52db Impulsive
Noise Spike	56db ⁴ Sporadic / Impulsive	71.6 ⁵ Sporadic	69db ⁶ Sporadic / impulsive	68.4db ⁷ Sporadic / Impulsive	68db Sporadic
General Yard Work		45db Continuous	54db Impulsive / dominant		
Air Compressor			50db Dominant		
Train				97.8db Sporadic	

- Maximum allowed Continuous noise
- Maximum allowed Dominant noise
- Maximum Impulsive noise
- Maximum allowed Sporadic noise
- Daytime = 7am – 9pm

day = 55db night = 45db
 day = 50db night = 40db
 day = 50db night = 40db
 day = 65db night = 55db

As evident by the daytime readings, it appears nearly impossible to conduct daytime activity at night between the hours of 9pm and 7am. Although saw cutting and general operation of interior work with the overhead door open was not recorded, evidence has caused doubt that the normal operation could be conducted within the limitations of the night-time noise bylaw.

¹ Pneumatic nailer in use briefly, but not recorded

² Forklift w/ backup beeper

³ Loader

⁴ Hammering and stacking of pallets

⁵ Unknown noise

⁶ Loader loading stone rubble into dump truck (borderline sporadic-impulsive because of varying frequency of repetition)

⁷ Loader loading stone rubble into dump truck (borderline sporadic-impulsive because of varying frequency of repetition)

Issue #2

In addition to the noise complaint, a review has been requested to assess compliance with the approved site plan and water Resource Special Permit. At issue is the alleged lack of screening and location of storage of material onsite. Photos were taken from the 2A overpass and Spectacle Pond of the site.

The fence presently erected along with required vegetation is the product of an agreement between the owner of the property and the Planning Board. This was a conditional agreement in that if the intent of the Bylaw was not achieved the Planning Board would be revisiting the issue*.

Furthermore, product placement on the site appears to have exceeded the limitations on the approved site plan.

- Area shown as open space along the south west portion of the lot is now populated with stone product
- Area designated as parking is populated with stone product near the southern face of the building
- Area along Spectacle Pond Road outside the fenced area has miscellaneous rock storage
- Area designated as Utility Easement has miscellaneous rock storage

1. It has been determined that normal activity during the night-time hours will produce a decibel level in excess of that allowed by the Littleton Zoning Bylaws Article XVII. As such, *you are hereby ordered to cease all outside activity between the hours of 9pm and 7am.* This includes the operation of any interior activity with the doors open. If at any time this office records normal business activity between 9pm and 7am or if a report from the Littleton Police Department indicates activity beyond normal ambient noise levels noted above, fines will be issued.
 - a) If at any time noise is recorded during daytime hours of 7am and 9pm that exceed the limitations of Article XVII of the Littleton Zoning Bylaws, fines will be issued.
2. It has been determined that the approved site plan has been exceeded by allowing excessive storage of material in areas otherwise designated as open or for other uses. Furthermore, it appears that the required screening and vegetation does not meet the intent of the approved site plan. As such *you are hereby ordered to vegetate and adequately screen the area of your property as outlined on the approved site plan or replace existing inadequate vegetation to meet the intent of the approved site plan and minimum requirements of §173-43A of the Littleton Zoning Bylaws.* Failure to comply with this order shall result in fines.
 - a) As an alternative resolution to this issue, it is recommended that you seek the opinion of the Planning Board regarding issues noted to determine if compliance has been met or to seek a modification to the existing Special Permit and Approved Site Plan. Written verification of compliance from the Planning Board will satisfy this issue.

* See Water Resource Special Permit dated June 28, 1998 and approved Site Plan dated June 25, 1998

You have the right to appeal this order pursuant to General Laws Chapter 40A, Section 8 and 15, to the Littleton Board of Appeals, provided such an appeal is taken within thirty days from the receipt of this order.

If you have any questions regarding this matter, please do not hesitate to contact this office.

Sincerely,



ROLAND BERNIER
Building Commissioner
Zoning Officer

Cc: Police Chief
Planning Board

QUITCLAIM DEED

The Stoneyard, LLC a limited liability corporation existing under the laws of the Commonwealth of Massachusetts, with an address of 2 Spectacle Pond Road Littleton, Massachusetts 01460

For Consideration of: One (1.00) Dollar

grants to: Stoneyard.com, LLC, a limited liability corporation existing under the laws of the Commonwealth of Massachusetts, with an address of 2 Spectacle Pond Road Littleton, Massachusetts 01460

WITH QUITCLAIM COVENANTS:

That certain parcel of land located off of Spectacle Pond Road in Littleton, Middlesex County, Massachusetts, being shown as Lot S-3-A on the plan entitled, "Plan of Land in Littleton, Mass. Prepared for Middlesex Materials Corporation", Scale 1" = 100', March, 1998 by David E. Ross Associates, Inc., Plan No. L-4796, as recorded with the Middlesex County, South District Registry of Deeds as Plan No. 670 of 1998 in Book 28755, Page 160. Said plan may be referred to for a more particular description of Lot S-3-A.

Lot S-3-A contains 9.8 acres of land, more or less, according to said plan.

Subject to and with the benefit of the following:

1. A non-exclusive easement over, under and upon the area shown as "Proposed Right of Way and Utility Easement "A-A" on a plan entitled, "Plan of Easement in Littleton, Mass. Prepared for Middlesex Materials Corporation", Scale: 1" = 100', December, 1996 by David E. Ross Associates, Inc., Plan No. L-3878-A, recorded as Plan No. 670 of 1998, and further described in the terms and conditions of a "Common Driveway Agreement recorded with the Middlesex County South District Registry of Deeds in Book 28755, Page 161.
2. The rights and restrictions with respect to interference of present or future uses of any of the land within 7000 feet of said Lot S-3-A as set forth in a deed from Middlesex Materials Corporation to The Stoneyard, LLC dated June 25, 1998 and recorded with said Deeds in Book 28771, Page 453.
3. The rights, terms and reservations set forth in a deed from San-Vel Concrete Corporation to Aggregate Materials Corp. dated July 14, 1992 and recorded with said Deeds in Book 22216, Page 109, including, without limitation, the reservation

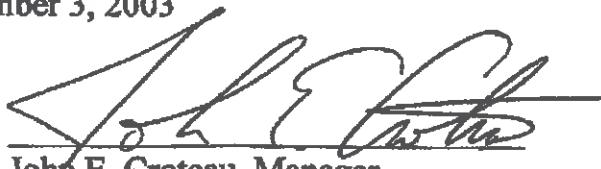
Property Address: 2 Spectacle Pond Road, Littleton, Ma.
DATE 1/4/03

of a right of way and access easement over, and under and upon the area shown as "Proposed 60' Wide right of Way & Utility Easement" on plan No. 582 of 1992 recorded with said Deeds in Book 22216, Page 104.

4. Order of Conditions from the Littleton Conservation Commission recorded with said Deeds in Book 28771, Page 478 as affected by a Certificate of Compliance recorded herewith.

For grantors title see deed recorded with the Middlesex County South District Registry of Deeds in Book 28771, Page 453.

Witness my/our hand(s) and seal this September 3, 2003


John E. Croteau, Manager

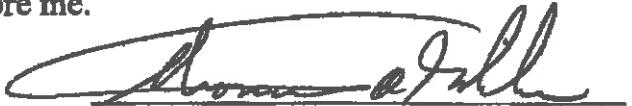

David P. Croteau, Manager

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

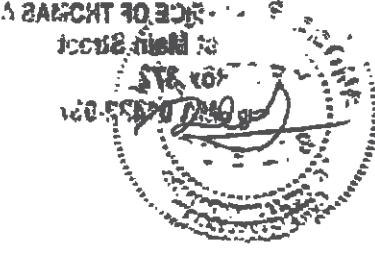
September 3, 2003

Then personally appeared the above named John E. Croteau, Manager and David P. Croteau, Manager and acknowledged the forgoing instrument to be the free act and deed of The Stoneyard, LLC, before me.


, Notary Public

My Commission Expires:

\SERVER\SHARED\DIRECT\SARAH\Real Estate\00-PendCl\TheStoneyard-03-0232cr\DeedQC.fim


Thomas A. Gibbons, Notary Public
Commonwealth of Massachusetts
My Commission Expires 1/22/2010



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

Date: March 19, 2012

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

Applicant: John Croteau Name of Firm: Stoneyard, LLC
Mailing Address: 2 Spectacle Pond Rd., Littleton, MA 01460

Subject Parcel Location: 2 Spectacle Pond Rd.
Subject Parcel Map & Parcel No.: R22-9-1
Subject Parcel Owner (s): Stoneyard, LLC

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) 10 including the applicant and subject parcel.

Certified by:

Lorraine Freitas, Assessment Analyst

Loc: 1 SPECTACLE POND RD Parcel ID #: R22 13 1
LUC: 402

SPECTACLE POND ROAD ASSOCIATES

1 SPECTACLE POND ROAD

LITTLETON MA 01460

Loc: 194 AYER RD Parcel ID #: R22 7 0
LUC: 314

CORT/AYER ROAD LLC

194 AYER RD

LITTLETON MA 01460

Loc: 6 SPECTACLE POND RD Parcel ID #: R22 9 0
LUC: 440

LENOX MANAGEMENT, LLC

1 KEEFE RD

ACTON MA 01720

Loc: 2 SPECTACLE POND RD Parcel ID #: R22 9 1
LUC: 401

STONEYARD.COM, LLC

2 SPECTACLE POND RD

LITTLETON MA 01460

Loc: 4 SPECTACLE POND RD Parcel ID #: R22 9 2
LUC: 440

BREITMAIER STEVEN G TRUSTEE OF
BENNETTS BROOK REALTY TRUST
14 PATRICIA DR

AYER MA 01432

Loc: SPECTACLE POND RD Parcel ID #: R22 9 3
LUC: 442

MIDDLESEX MATERIALS MGMNT LLC
AKA TMC LEASING LLC
1 SPECTACLE POND RD

LITTLETON MA 01460

Loc: KING ST Parcel ID #: U44 21 0
LUC: 901

BOSTON + MAINE RAILROAD

IRON HORSE PARK

NO BILLERICA MA 01821

Loc: 196 AYER RD Parcel ID #: U45 1 A
LUC: 924

COMMONWEALTH OF MASSACHUSETTS
DEPT OF PUBLIC WORKS
519 APPLETON ST

ARLINGTON MA 02174

Loc: 239 AYER RD Parcel ID #: U45 15 0
LUC: 013

RODGERS FAMILY HOLDINGS INC

843 WEST HOLLIS STREET

NASHUA NH 03062

Loc: 2 BRUCE ST Parcel ID #: U45 2 0
LUC: 017

MATHESON EUNICE P/FRANK W TRUS
MATHESON FAMILY TRUST
591 GREAT ROAD

LITTLETON MA 01460

TOWN OF AYER TOWN LINE

OWNER	CO-OWNER	MAILING	PARCEL	PARCEL
NAME	NAME	ADDRESS	LOCATION	ID
PAN AM SOUTHERN LLC		1700 IRON HORSE PARK, N BILLERICA, MA 01862	4 WILLOW ROAD	24-1
LITTLETON MOTOR COURT		843 WEST HILLIS STREET, NASHUA, NH 03062	0 OFF WILLOW ROAD	31-5
WILLOWS CONDOMINIUM TRUST	WILLOW ROAD DEVELOPMENT LLC	148 PARK STREET, NORTH READING, MA 01864	0 WILLOW ROAD	30-24
TOWN OF LITTLETON				

The above list is a true copy of the records as of January 1st in the
Town of Ayer Assessor's office for the last known names and
addresses of owner of land located within 300 feet of the subject
property in accordance with amended Mass General Law 40A,
Section 11.

Certified: Ayer Board of Assessors

March 21, 2012

(3)