



OFFICE OF THE
LITTLETON BOARD OF APPEALS
LITTLETON, MASSACHUSETTS 01460

Petitioner: Sudak Brothers Enterprises LLC

Case No.785A

Date Filed: August 4, 2010

The Littleton Board of Appeals conducted a public hearing on September 16, 2010 at 7:50 P.M. at the Shattuck Street Municipal Building on the petition of Sudak Brothers Enterprises, LLC for a Variance or Special Permit to store commercial trucks at 85 Russell Street, Littleton, Ma. Notice of the hearing was given by publication in the Littleton Independent, a newspaper published in Acton and circulated in Littleton on September 9, 2010 and September 2, 2010, and by mail to all abutters and parties in interest. Present and voting: Sherrill Gould, Chairman, William Farnsworth, John Cantino, Cheryl Hollinger and Jeff Yates, Members, Present and not voting was Alan Bell, Alternates.

The petitioners run a family business of trucking gravel and construction materials from a supplier to a job site. They purchased the property at 85 Russell Street, in the industrial zone to construct a storage garage for their trucks. The Petitioners described that the building would be solely to garage no more than 4 trucks when the trucks were not in use. There would be no maintenance or washing of the trucks on the property and no materials would be in the trucks when stored. The building was designed so that all four trucks could be garaged at the same time. The petitioners described that their operation was small and specialized; that two of the trucks were usually in service at any given time with the other two serving as backup, and that usually a truck would leave early in the morning and not return until the end of the day; resulting in few traffic trips to and from the site. The site is located a distance from the paved road and sits in a depression close to interstate Route 495 so noise from the trucks would likely not be greater than the current highway noise. The property, though zoned industrial is in an aquifer protection district and is across the street from a residential zone where homes are built on one acre and smaller lots. The property is also on the street where the Middle School and an elementary school are located. The petitioners had already obtained site plan review from the Planning Board, Board of Health permits, and an Aquifer Zone special permit from the planning Board to construct their building, but when they applied for the building permit, they were advised that under the Littleton Zoning By-Law, storage of motor vehicles falls within the definition of Motor Vehicle Service Station which is not allowed in the aquifer zone, and which requires a special permit from the Zoning Board in an industrial zone, so petitioners were advised to seek relief from the Zoning Board. One abutter appeared to express concern for the noise and the traffic generated at the site, citing the safety of the children as his concern. Savas Danos of the Water Department, also appeared in support of the petitioners, citing that the petitioner's activities would not impact the aquifer zone adversely in any manner, and that they were not technically operating a motor vehicle service station.

FINDINGS: The Board considered the applicable By-law sections and determined that while the use of storing motor vehicles, was technically contained within the definition of motor vehicle petitioner's use of this property as a garage for their trucks. The Board further determined that

granting a special permit pursuant to the provisions of Section 173-26 would permit the Board to impose conditions to insure that the operation would not be expanded to include any of the activities of a motor vehicle service station intended to be prohibited in the aquifer.

DECISION: The Board voted unanimously to GRANT a Special Permit to the petitioners pursuant to Section 173-26 for a truck storage garage at 85 Russell Street with the following conditions:

There would be no more than four trucks stored within the building.

There would be no outdoor storage of trucks or other vehicles overnight.

Access and egress to and from the facility would be predominantly northbound toward Route 119/Great Road, with only incidental travel past the schools to and from King Street.

The only activity allowed by this special permit within the definition of motor vehicle service station is the garaging of four motor vehicles within the building.

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 Decision in the office of the Town Clerk.

This Variance/Special Permit shall not take effect until a copy of the Decision bearing the certificate of the Town Clerk is recorded with the Middlesex South District Registry of Deeds, in accordance with the provisions of M.G.L.C. 40A, Sections 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.

If the rights authorized by this Variance/Special Permit are not exercised within two (2) years from the date of granting it shall lapse in accordance with the provisions of M.G.L.Ch. 40A Section 10 or Section 9.

Signed: Jeff Yates
Jeff Yates, Clerk, Zoning Board of Appeals

Date: 29 Sep 2010

Book 54740 Page: 558 _____

