

Petitioner: Jonathan P. Ames  
Property Address: 59 Matawanakee Trail  
Case No: 773A  
Date Filed: December 29, 2009

The Littleton Board of Appeals (the "Board") conducted public hearings on January 21 and February 18, 2010 at Shattuck Street Municipal Building, Shattuck Street, Littleton on the petition of Jonathan P. Ames for a Variance pursuant to the Town of Littleton Zoning Bylaws Section 173-26 / Special Permit pursuant to Section 173-68 for a finding that a 2 family property constructed prior to 1951 is consistent with Littleton Zoning at 59 Matawanakee Trail. Notice of the hearing was given by publication in the Littleton Independent, a newspaper published in Acton and circulated in Littleton, on January 7 and 14, 2010 and by mail to all abutters and parties in interest. Present on January 21 were William Farnsworth, Acting Chair, Julia Adam, John Cantino, Jeff Yates, Members, and Rod Stewart, Marc Saucier, Alternates. On February 18, 2010 present and voting were William Farnsworth, Acting Chair, John Cantino, Members, and Rod Stewart, Alternate.

Mr. Jonathan P. Ames appeared and presented the application and attachments. They included a deed to the property, the abutters list, Property Record Cards for the two dwellings, a statement from the Board of Health indicating the existence of a sewer line from the studio to the septic overflow, a statement from Dawn Gallagher, dated January 20, 2010, and a statement from Mr. Richard Crowley, dated January 13, 2010. Mr. Ames states that he has owned the property for 20 years. The garage with an in-law apartment / studio was there at that time. The apartment has been rented to several parties over the years. As proof, Mr. Ames submitted a statement from Dawn Gallagher stating she lived there from approximately 1994 to 1995 and a statement from Richard Crowley stating he rented the in-law apartment from approximately March of 2000 to August of 2008. Mr. Ames stated that the Assessors records indicate that the buildings were built about 1948. Mr. Ames further states that there are no records in the Building Department showing when the in-law apartment was built. Therefore, he is asking for a variance or special permit.

There were no abutters or persons in opposition in attendance. The Board did not receive any correspondence from town officials.

There was general discussion, questions and comments from Board members.

**FINDINGS:** The Board made the following findings:

1. The property is in the Residential District.
2. There is a main single-family dwelling on the property and a separate detached single-family dwelling attached to a garage.
3. Assessors Property Card indicates both to have been built about 1948.
4. Acknowledgement of statements from Dawn Gallagher and Richard Crowley indicating occupancy from 1994 to 2008.
5. Town of Littleton Zoning Bylaw Allows single-family dwelling by right.
6. The site is appropriate and no significant nuisance, hazard or congestion will be created and that there will be no substantial harm to the neighborhood or derogation from the intent of the bylaw.

The Board acknowledges that there are two separate, detached single-family dwellings on the property. The dwelling unit at the garage has been in use for approximately 16 years. Each single-family dwelling use is allowed by right under Littleton Zoning Bylaw Section 173-26 Use Regulations. Being detached, this is not a two-family dwelling. Littleton Zoning Bylaw does not restrict to only one single-family dwelling per lot. Section 173-58 Accessory Dwelling does not apply. Section 173-68 Conversion of existing dwelling to a two-family dwelling does not apply, there is no conversion and the two are separate dwelling units. The Board acknowledges that there is not any article within the Zoning Bylaw that would require a Variance or Special Permit to continue the use as two separate single-family dwellings. M.G.L. C. 40A, Section 7 states that there is a 10 Year Statute of Limitation on zoning violations. The use is allowed as presented.

DECISION: The Board voted unanimously as NO ACTION because no Variance or Special Permit required. The Board AFFIRMED that the two separate single-family dwellings are allowed.

Signed: 

John Cantino, Assistant Clerk

Date: \_\_\_\_\_

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