



OFFICE OF THE
LITTLETON BOARD OF APPEALS
LITTLETON, MASSACHUSETTS 01460

received

6/25/09 (4)

LITTLETON, MASSACHUSETTS 01460

Board Use Only ... Case # 763A Filing Date June 25, 2009

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

1. LOCATION OF THE PROPERTY:

A. Street Address 244 GREAT ROAD *Please print*

B. Assessors' Map and Parcel # U7-30

B Zoning District Aquifer District Water Resource District

C. Deed Reference 52881 pg 445 5/29/09

2. LITTLETON ZONING BYLAW SECTION(S)

A. Variance 173-6 PAR B2 / 173-26

B. Special Permit 173-7 / 173-26

C. Appeal _____

3. STATE BRIEFLY REASONS FOR THIS PETITION *Use additional sheets, if necessary*

SPECIAL PERMIT REQUIRED, STORAGE OF
MOTOR VEHICLES. AND / OR OPEN AND
BULK STORAGE.

4. PETITIONER(S) JAMES MCNIPF

Owner Tenant Licensee Agreed Purchaser Agent Other _____

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

James McNipf
Signature

Po Box 924 LITTLETON MA
Mailing Address

6/25/09
Date

978-486-4724
Telephone #

Town Clerk Use ONLY Filing Fee Paid \$ 350.00 Ch# 5859
Registry Fee Paid \$ 75.00 Ch# 5861 Date 6/25/09



BUILDING COMMISSIONER

ZONING OFFICER

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

July 14, 2009

TO: Board of Appeals
FROM: Zoning Officer, Roland Bernier
RE: 19 Middlesex Drive
244 Great Road

Pursuant to MGL Chapter 40A, §15, please accept the attached documents and papers constituting the record of the case in which the above noted appeal is being taken.

19 Middlesex Drive

A permit application to construct a second level addition to an existing structure was received on June 15, 2009. A review of the plot plan provided with the application showed that the existing structure is pre-existing non-conforming, and located on a lot less than 40,000 square feet. It should be noted that the second story addition will be constructed on a portion of the existing structure that was permitted by this office in 1984 absent of a special permit, without challenge to the presumed nonconforming status of the structure.

The roughly drawn addition (drawn by other than the stamped land surveyor) on the submitted plot plan does not provide enough detail to determine required setback compliance. As such, this office has determined that the existing 1984 permitted wing where the addition is proposed to be constructed is nonconforming (setback distance from street) and that §173-10A does not apply without further evidence of an instrument survey.

Based on these assumptions, it is the opinion of this office that any addition above the existing structure will be increasing the nonconforming nature of the structure, requiring a special permit [§173-10B(1)] from the Board of Appeals to proceed.

No further comment

WBR

Memo

To: Appeals Board Members

From: Maren Toohil

CC: Roland Bernier

Date: June 30, 2009

Re: Case #763A 244 Great Road

Thank you for the opportunity to provide input on Case #763A, the application to allow motor vehicle storage at 244 Great Road.

The Planning Board defers to your judgment regarding whether to approve the application. However, stormwater discharge from the site has the potential to affect surface and groundwater quality throughout the area.

The Planning Board recommends that the site should be brought in compliance with the requirements of Section 173-32 C. Parking area design. Subsection (6) "To reduce stormwater discharge and improve the attenuation of pollutants, applicants are required to use stormwater control Best Management Practices (BMPs) and Low Impact Development (LID) techniques in parking lot design (i. e., interior landscaping, vegetated/grassy swales, infiltration planters, permeable pavement, rain gardens, etc.).

Specifically, if storage of motor vehicles is allowed on the site, the storage area should be upgraded to address surface water runoff to include BMP and LID requirements.

PROPOSED USE SUMMARY

Applicant: King Tuck Trust, James McNiff and Sheryl McNiff Trustees
Location: 244 Great Road (Rear) Littleton MA

This application is based upon the proposed activity being an other principal use with extremely observable attributes to uses permitted by the use regulations of the Town of Littleton Zoning By Laws in the area. The proposed use is located in a "Business District"

The current use of the proposed area is for a landscaping business. This business stores multiple trucks on site along with landscaping supplies. Landscaping crews are dispatched via Truck to various jobs on a daily basis.

The proposed use will be a small towing business (one (1) to three (3) Trucks and the necessary short terms storage of motor vehicles. No trucks or other vehicles will be serviced on the premises. The towing will be primarily involuntary (e.g. Police impounded vehicles) and must be licensed by the Massachusetts Department of Public Utilities. (DPU)

The principal use as proposed herein has the same externally observable attributes similar to uses permitted by the Littleton Zoning By Laws in the area. More specifically it is extremely similar to the retail, and service use of Moran Automobile Sales. The said auto sales business clearly involves the storage of automobiles and other motor vehicles and the use of trucks for multiple reasons, including delivery and removal of motor vehicles.

The location of the proposed business will be at 244 Great Road in Littleton. The area to be used is shown generally as Lot A on the Plot Plan submitted with this Application. The area is completely fenced by a chain link six (6) foot high fence with a chain link gate that can be locked. The location is not observable from the main road (Great Road) and there are no residential dwellings within close proximity of the area.

It is respectfully submitted that the proposed use does not create any significant nuisance, hazard, or congestion and represents no substantial harm to the neighborhood nor derogation from the intent of Littleton Zoning By Laws.

6/29/09

Respectfully submitted

King Tuck Trust

by its Attorney



Peter E. Knox

P.O. Box 524

Littleton, MA 01460

978 425 0340

ATTACHMENT

Application of Special Permit/Variance

Reference #3 of Application:

Other principal reason: The proposed use is “an other principal use with externally observable attributes similar to uses permitted” by the Littleton Zoning By Laws.

Reference #4 “Petitioner: Such is amended to read King Tuck Trust James McNiff and Sheryl McNiff Trustees

6/09/09
King Tuck Trust
By Peter James McNiff

Wilson & Orcutt, P.C.
201 Great Road
Acton, MA 01720



2009 00097858
Bk: 52881 Pg: 445 Doc: DEED
Page: 1 of 5 05/29/2009 01:37 PM

MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 05/29/2009 01:37 PM
Ctrl# 123537 21354 Doc# 00097858
Fee: \$6,956.28 Cons: \$1,525,500.00

QUITCLAIM DEED

G.V.M. REALTY, INC., a Massachusetts Corporation, with a principal place of business at 22 West Main Street, Ayer, Massachusetts 01432

In consideration of One Million Five Hundred Twenty Five Thousand Five Hundred and 00/100 (\$1,525,500.00) Dollars.

Grants to **James McNiff and Sheryl McNiff, Trustees of the King Tuck Trust**, u/d/t dated February 28, 1995 and recorded with the Middlesex South District Registry of Deeds at Book 25209, Page 451.

with QUITCLAIM COVENANTS

The land with the buildings thereon, if any, in Littleton, Middlesex County, Massachusetts and further described as follows:

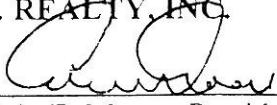
See attached Exhibit A

For title reference also see Exhibit A.

The within conveyance does not constitute all or substantially all of the assets of the within grantor.

Executed as a sealed instrument this 28 day of May, 2009.

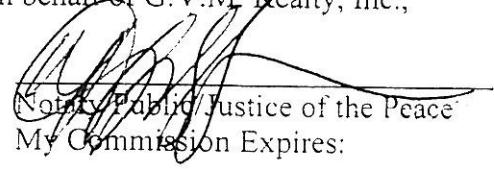
G.V.M. REALTY, INC.


By: Calvin E. Moore, President & Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, County, ss.

On this 28 day of May, 2009, before me, the undersigned notary public, personally appeared Calvin E. Moore, proved to me through satisfactory evidence of identification, which were drivers license or _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of G.V.M. Realty, Inc.,


Notary Public/Justice of the Peace

My Commission Expires:

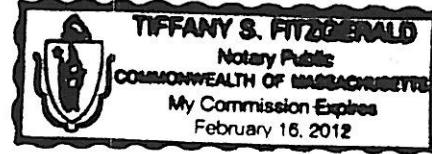


EXHIBIT A

TRACT A:

The land off the southerly side of Great Road (Route 2A) in the Town of Littleton, Middlesex County, Massachusetts, being shown as the parcel containing 22,268 square feet, more or less, on a plan entitled "Plan of Part of Land Owned by Littleton Realty Corporation in Littleton, Mass.", dated February 7, 1957, prepared by William S. Crocker, Inc., Civil Engineer, recorded with the Middlesex South Registry of Deeds at Book 8914, Page 477, said land being bounded and described as follows:

Northerly	in part by land of owner unknown and in part by a portion of the Right of Way shown on said plan: one hundred ten (110) feet;
Easterly	by said Right of Way, one hundred (100) feet;
Southeasterly	also by said Right of Way, one hundred ten (110) feet;
Southerly	by land now or formerly of Littleton Realty Corporation, one hundred ten (110) feet;
Northwesterly	by land of owner unknown, one hundred forty (140) feet;
Westerly	also by land of owner unknown, forty-nine (49) feet.

Together with the right, privilege and easement to the grantee, its customers, and those transacting business with it to use, in common with all others entitled thereto, the parking facilities located on the adjoining land now or formerly owned by Littleton Realty Corporation (so far as the grantor can grant the same) in the same manner that said facilities are customarily used in said Town of Littleton.

Together with all the rights in and benefits of the covenant of Littleton Realty Corporation contained in its Deed to G.V. Moore Lumber Co., Inc., recorded with the Middlesex South Registry of Deeds at Book 8914, Page 477, restricting the use of the adjoining land shown on said plan.

For title reference, see Deed dated December 29, 1961 and recorded at Book 9962, Page 277.

TRACT B:

The parcel of land situated off Great Road in said Littleton and shown as the lot containing 15, 226 square feet on a plan recorded with said Deeds at Book 12018, Page 728, said plan being entitled "Plan of Land in Littleton, Mass. owned by Littleton Realty Corp.", dated May 5, 1971, prepared by Richard L. McGlinchey, Surveyor.

For title reference, see Deed dated June 18, 1971 and recorded at Book 12018, Page 728.

TRACT C:

The land in that part of said Littleton known as Littleton Common, with the buildings thereon, situated on the southwesterly side of the road to Boston being Lot "C" on a plan recorded with the Middlesex South Registry of Deeds in Plan Book 406, Plan 42, being bounded and described as follows:

Beginning	at said road to Boston and at a corner of land now or formerly of James A. Parker as shown on said plan; thence running
South	42 $\frac{1}{2}$ ° West by said Parker land one hundred sixty-five (165) feet; thence running
South	47 $\frac{1}{2}$ ° East by land now or formerly of George H. Davidson ninety (90) feet; thence running
North	42 $\frac{1}{2}$ ° East by said Davidson land one hundred sixty-five (165) feet to said road; thence running
Northwesterly	by the line of said road ninety (90) feet to the point of beginning.

For title reference, see Deed dated May 28, 1986 and recorded at Book 17121, Page 468.

TRACT D:

Three (3) certain parcels of land situated in Littleton, Middlesex County, Massachusetts, at or near the southwesterly sideline of Great Road, and shown on a plan of land entitled "Land in Littleton, Mass., surveyed for G.V.M. Realty, Inc.", dated July 1986, prepared by Charles A. Perkins Co., Inc., and recorded with the Middlesex South Registry of Deeds at Book 18148, Page End, the parcels conveyed being the following:

Parcel "A", containing 7,000 square feet

Parcel "B", containing 115 square feet

Parcel "C", containing 50 square feet

Be all the same, more or less, according to said plan, reference to which is hereby made for a more particular description of each of said parcels.

The aforesaid Parcel "C" is conveyed subject to a Right of Way for ingress and egress, and otherwise as described above, for the benefit of the remaining land of Littleton Realty Corporation as shown on the plan.

The aforesaid Parcel "C" is conveyed subject to the provisions of a water line easement to the Town of Littleton described in an instrument dated July 13, 1950, and recorded at Book 7656, Page 484.

For title reference, see Deed dated October 24, 1986 and recorded at Book 17537, Page 462.

The aforesaid Tracts A, B, C and D are conveyed together with a Right of Way over that portion of the land shown on said plan to be of Littleton Realty Corporation and denominated "Proposed Right of Way", running from said Great Road to the aforesaid Parcel "A", measuring forty-five (45) feet in width in the front portion, narrowing near the point that it meets the existing building, then measuring variable widths thereafter until its end at a line formed by an extension of the northeasterly line of Parcel "A", all as shown on said plan. The Right of Way hereby granted is to be used in common with others presently entitled for the purposes of ingress and egress and otherwise in the manner and for the purposes that similar ways are used in the Town of Littleton, and in particular for the installation, maintenance and use of all utilities. The Easement hereby granted is further intended to clarify and, where the context requires, to supersede the rights of way granted in the Deeds recorded with said Registry of Deeds at Book 8914, Page 477 and Book 12018, Page 728, provided that, nothing herein is intended to disturb or diminish any rights referred to in said Deeds relative to parking.

There is conveyed herewith, an Easement for surface drainage to be shared with the other land of Littleton Realty Corporation as shown on said plan, over that parcel lying southeasterly of Parcel "A" and denominated on the plan, "Proposed Drainage Easement".

REGISTRY OF DEEDS
SOUTHERN DISTRICT
ATTEST:

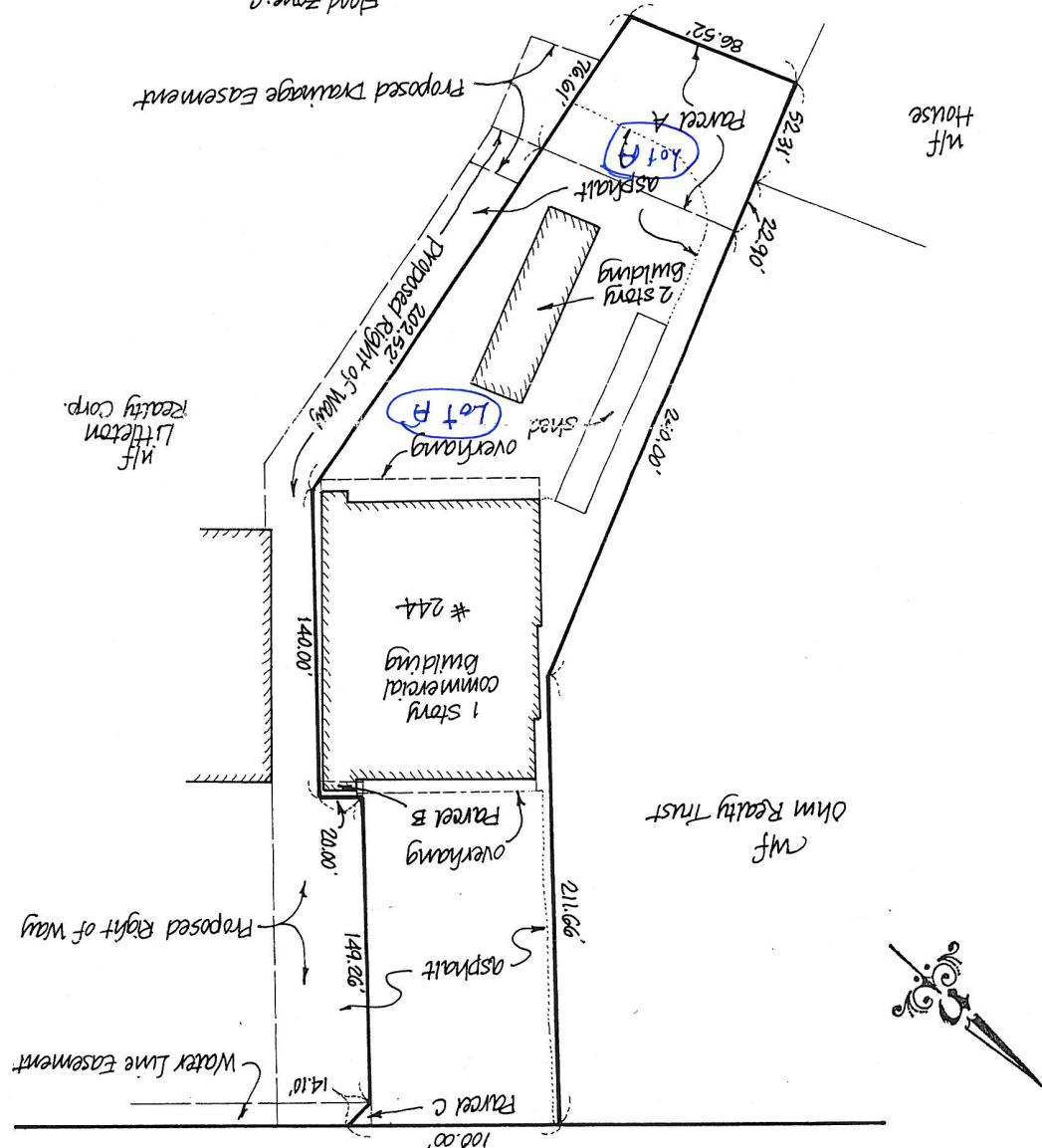
Eugene C. Brune
REGISTER



244 Great Road ~ Littleton

application: King Tuck Trust

Flood Zone: C
Parcel No. 250200 00045



Great road