

## General Information

### What authority does the Board of Appeals have?

The Board of Appeals obtains its authority under the Massachusetts General Laws Chapter 40A, §14 and the Town of Littleton's Zoning By-law 173-6 to hear and decide *appeals*, to hear and decide applications for *Chapter 40A special permits*, and to hear and decide petitions for *variances*. The Board of Appeals also hears and decides applications for *special permits for low and moderate income housing* under Massachusetts General Laws Chapter 40B Sections 20, 21, 22, and 23.

### What is an Appeal?

Pursuant to Massachusetts General Laws Chapter 40A, §8 and Littleton Zoning By-law 173-6 B(3) and 173-6 B(5) the Board of Appeals hears and decides appeals by any person aggrieved by any written order or decision of the Zoning Enforcement Officer or other administrative official in violation of any provision of Massachusetts General Laws Chapter 40A or the Littleton Zoning By-laws. Building permits withheld by the Building Commissioner acting under MGL C. 41, §81Y as a means of enforcing the Subdivision Control Law may also be issued by the Board of Appeals. Action taken by the Building Commissioner acting under the Code of Littleton Chapter 152 will also be heard by the Board of Appeals. *If the Zoning Enforcement Officer or other administrative official does not issue a written order or decision, the Board of Appeals will not hear the appeal.* Appeals from the written decisions of the Zoning Enforcement Officer or other administrative official must be filed with the Office of the Town Clerk pursuant to Massachusetts General Laws Chapter 40A Section 15 within thirty (30) days from the date of the written order or decision which is being appealed. *Failure to file a timely appeal is fatal.*

### What is a Chapter 40A Special Permit?

Certain uses of property are permitted as a matter of right. However, the Littleton Zoning By-laws provide that other uses are not allowed in certain zoning districts, and that specific types of uses shall only be permitted in specified zoning districts upon the issuance of a Special Permit from the Board of Appeals pursuant to Massachusetts General Laws Chapter 40A, § 9, 1A, and 9B. Special Permits may be issued only for uses which are in harmony with the general purpose and intent of the By-law, and may be subject to general or specific provisions set forth therein. Such permits may also impose conditions, safeguards and limitations on time or use. A Special Permit, unlike a Variance, may be conditioned by limiting its duration to the term of ownership or use by the Applicant. When a Special Permit application is accompanied by plans or specifications detailing the work to be undertaken, the plans and specifications become conditions of the issuance of the permit. Therefore, once a Special Permit is granted, modification of the plans or specifications require a prerequisite, modification of the Special Permit through the filing of a successive Special Permit application. No building permit may be issued by the Building Commissioner for a use or structure that requires a Special Permit until 1) a Special Permit has been granted by the Board of Appeals, 2) the expiration of the twenty (20) day appeal period pursuant to Massachusetts General Laws Chapter 40A, Section 11, and 3) the Special Permit has been recorded at the Middlesex South District Registry of Deeds. The Building Commissioner shall require proof of recording at the Registry of Deeds from the Town Clerk prior to issuance of a building permit. No party is entitled "as of right" to a Special Permit. The Board of Appeals, in the proper exercise of its discretion, is free to deny a Special Permit even if the facts show that such a permit could be lawfully granted. *Special Permits 40A shall lapse 24 months following the granting unless substantial use or construction has commenced.*

### What is a Chapter 40B Special Permit?

Chapter 40B is a state statute, which enables local Boards of Appeals to approve affordable housing developments under flexible rules if at least 25% of the units have long-term affordability restrictions. Also known as the Comprehensive Permit Law, Chapter 40B was enacted in 1969 to help address the shortage of affordable housing statewide by reducing unnecessary barriers created by local approval processes, local zoning, and other restrictions. Its goal is to encourage the production of affordable housing in all communities throughout the Commonwealth. *Special Permits 40B shall lapse 3 years from the date the permit becomes final unless construction authorized by a comprehensive permit has begun, or unless specifically noted otherwise in the permit by the Board of Appeals.*

### What is a Variance?

A Variance is a waiver of the zoning rules adopted by the Citizens of Littleton at Town Meeting. A Variance may be granted pursuant to the Littleton Zoning By-laws and Massachusetts General Laws Chapter 40A, Section 10. Accordingly, it is only in rare instances and under exceptional circumstances that the relaxation of the general restrictions established by the Zoning By-laws are permitted. A Variance is distinguished from a Special Permit. The Variance is used to authorize an otherwise prohibited use or to loosen dimensional requirements otherwise applicable to a structure. No person has a right to a Variance. *Variance of "use" is almost never granted by the Board of Appeals. Variance of "dimensional" requirements is granted in rare occasions.* The Board of Appeals has no discretion to grant a Variance unless the petitioner provides evidence, and that the Board of Appeals determines that, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or applicant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law. Even if the Board of Appeals find that such hardship exists, it may exercise its discretion and not grant a Variance. No building permit may be issued by the Building Commissioner for a use or structure that requires a Variance until 1) a Variance has been granted by the Board of Appeals, 2) the expiration of the twenty (20) day appeal period pursuant to Massachusetts General Laws Chapter 40A, Section 11, and 3) the Variance has been recorded at the Middlesex South District Registry of Deeds. The Building Commissioner shall require proof of recording at the Registry of Deeds from the Town Clerk prior to issuance of a building permit. Rights authorized by a Variance must be exercised within 1 year of granting, or said variance shall lapse.

ZBA Case No.: 12-1958 Address 370 Harwood Ave.

## APPLICATION FOR PUBLIC HEARING

Pursuant to MGL Chapter 40A, 40B and 41 and the Littleton Zoning By-laws

<b>BOARD OF APPEALS</b>	
37 Shattuck Street P.O. Box MA 01460 Tel: 978-540-2420	
	
TOWN OF LITTLETON	
TOWN USE ONLY	
Received by the Town Clerk Office	
The filing is not official until stamped by the Town Clerk	
Filing Fee paid: \$ _____ Check # _____	

Pursuant to the provisions of Chapter 40, §57 of the Massachusetts General Laws as adopted by Town Meeting 2003, this document must be signed by the Tax Collector verifying payment of taxes.

Signature of Tax Collector

The undersigned hereby submits this petition for the following action (check all that apply):

Appeal of Decision of Building Inspector or other administrative official (see page 2)  
 Special Permit (40A) (see page 2)  
 Variance (see page 3)  
 Comprehensive Permit (40B) (Complete additional application (see page 2))

PETITIONER: Signature Matt Lombardo Date: 4/22/2022

Address: 370 Stow St Phone # 978-580-6629  
 Town, State, Zip: Acton, MA 01720 Email Address: Matt.Lombardo@yahoo.com

Deed Reference: Bl. Page

PROPERTY OWNER: (include authorization of Owner for Petitioner to represent Owner, if unsigned) Matt Lombardo

Signature: Matt Lombardo Date: 4/22/2022  
 Print Name (if different from petitioner) Matt Lombardo Email: Matt.Lombardo@yahoo.com

Please make check payable to Town of Littleton  
 Comprehensive Permit \$1000 + \$100/Unit over 10 units  
 Residential Property \$350 filing + \$105 recording fee + \$25 public hearing fee + \$25 abutter list + \$75 public hearing notice = \$555  
 Commercial Property \$350 filing + \$105 recording fee + \$25 public hearing fee + \$25 abutter list + \$75 public hearing notice = \$555

FEE

ASSESSOR MAP & PARCEL NUMBER U 31 - 46 - 0  
 ZONING DISTRICT: R VC B  IA IB (Circle all that apply)  
 Check box if applicable  
 AQUFER DISTRICT  
 WATER RESOURCE DISTRICT

## Appeal

Under M.G.L. c. 40A, § 8

The undersigned hereby appeals a written order or decision of the Building Commissioner / Zoning Officer or other administrative official alleged to be in violation of the provisions of M.G.L. c. 40A or the Zoning By-laws to the Board of Appeals for the Town of Littleton.

1. From what Town Official or Board is the appeal being sought?

Administrative Official Mike Kenney

Date of order/ decision

4/12/2022

*Mandatory: Attach copies of written order or decision under appeal*

2. Which statute or Zoning Bylaw do you rely for your appeal? H 6 Me Dec Part 4

M.G.L. c. 40A, § Zoning Bylaw §  
You may also consider whether you qualify for relief under any other authority of the Board to grant a Special Permit or Variance.

3. I hereby certify that I have read the Board of Appeals Instructions for Appellants and that the statements within my appeal and attachments are true and accurate to the best of my knowledge and belief.

Matt Lombard

Print name

Signature

Print name

## Special Permit 40A

Under M.G.L. c. 40A, § 9

The undersigned hereby petitions the Board of Appeals for the Town of Littleton to grant a Special Permit for the reasons hereinafter set forth and in accordance with the applicable provisions of the Zoning By-law.

1. Special Permits are expressly permitted in the Zoning Bylaws. Which Zoning Bylaw section do you rely for your appeal?

Zoning Bylaw §

2. Why are you applying for a Special Permit? Attach a written statement that specifically describes existing conditions and your objectives, along with necessary exhibits as listed in the filing instructions. You may also consider whether you qualify for relief under any other authority of the Board to grant a variance.

3. I hereby certify that I have read the Board of Appeals Instructions for petitioners and that the statements within my attachments are true and accurate to the best of my knowledge and belief.

Signature

Print Name

See supplemental instructions: Littleton Zoning Board of Appeals Rules for the Issuance of a Comprehensive Permit under M.G.L.c.40B

## Special Permit 40B

Under M.G.L. c. 40B

## Filing Instructions

## Variance

Under M.G.L. c. 40A, § 10

The undersigned hereby petitions the Board of Appeals for the Town of Littleton to vary, in the manner and for the reasons hereinafter set forth, the applicable provisions of the Zoning By-law.

1. Specifically, from what Zoning bylaw section are you seeking relief?

2. Why are you seeking relief from a literal enforcement of this Zoning By-law? *Attach a written statement that specifically describes existing conditions and your objectives, along with plans, specifications, certified plot plan and any documentation necessary to support your request.*

3. Show evidence that you meet the minimum requirements of a variance under section 173-6 B (2) of the Littleton Zoning By-laws. *Attach a written statement which specifically includes why, owing to conditions (soil, shape, or topography) especially affecting the premises, but not affecting generally the zoning district in which it is located, a literal enforcement of the Zoning By-law would result in a substantial hardship to you. Applicant must clearly demonstrate the lack of alternative remedies.*

4. I hereby certify that I have read the Board of Appeals Instructions for petitioners and that the statements within my petition and attachments are true and accurate to the best of my knowledge and belief.

Signature

Print name

Completed applications filed with the Town Clerk by the third Thursday of the month will be considered at the next regularly scheduled Zoning Board of Appeals meeting, held on the third Thursday of the following month. The Board in its discretion may dismiss an application or petition for failure to comply with any of the foregoing rules



Building Commissioner  
Zoning Officer  
P.O. BOX 1305  
LITTLETON, MA 01460  
(978) 540-2420

April 12, 2022

Catherine S. Goldring/Richard S. Halloran  
22 Oak Hill Road  
Natick, MA 01760

RE: Zoning Violation  
@ Parcel U31-46-0  
370 Harwood Ave  
Littleton MA 01460

Dear Ms. Goldring & Mr. Halloran

The current commercial firewood production operation at 370 Harwood Avenue in Littleton is not an allowed use of this property pursuant to the Town of Littleton Zoning Bylaw. In addition, the commercial processing of earth material for sale is also not an allowed use of this property pursuant to the Zoning Bylaw. These activities are a violation of the Code of The Town of Littleton, Zoning Bylaws, chapter 173-25 and use table 173-26.

Accordingly, I hereby **ORDER** you to cease and desist these activities immediately.

Failure to comply with this order will result in fines accruing daily. Chapter 173-5, up to \$300.00 dollars per day for every day that the violation exists.

Should you feel you are aggrieved by this enforcement action you have the right to appeal under chapter 173-6 B (2) to the Board of Appeals.

Please feel free to contact this office should you have additional questions.  
Your cooperation is anticipated and appreciated.

Thank you,

*Mike Kenney*  
Mike Kenney  
Building Inspector  
Asst. Zoning Enforcement Officer  
Town of Littleton  
978-540-2420  
[mkenney@littletonma.org](mailto:mkenney@littletonma.org)