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Your Case

Petitioner: Richard S. Halloran and Catherine S. Goldring
Case No. 22-958
Date Filed: April 25, 2022

The Littleton Board of Appeals conducted a public hearing on May 19, 2022 at 7:20 P.M. at the Shattuck Street Municipal Building, 37 Shattuck Street, Littleton, on an appeal from the decision of the Assistant Zoning Enforcement Officer to cease and desist processing earth materials at 370 Harwood Ave., Littleton, Ma. Notice of the hearing was given by publication in the Lowell Sun, a newspaper circulated in Littleton, on May 5, and May 12, 2022 and by mail to all abutters and parties in interest. Present and voting: Sherrill R. Gould, Chairman, Cheryl Hollinger, John Sewell and Rod Stewart, Members and Eli Constantinou, Alternate. Present and not voting were Kathleen O'Connor and John Field, Alternates.

The Zoning Enforcement Officer presented first. He stated that a current commercial operation of firewood production and the current commercial processing of earth materials for sale are not allowed uses of the property pursuant to the Zoning Bylaw. (The earth processing operation consists of a commercial operation of bringing earth products to the site, sifting and screening them on site and dispatching them for ultimate sale for agriculture and construction purposes.) His office, through his assistant, issued a cease and desist order to the land owner for both operations. The Petitioner stated that he would concede that the commercial processing of earth materials may be an accessory use not allowed in the residential zone but that his firewood processing had been ongoing at this property location for over 30 years and was always considered an allowed use both as an agricultural use and as a preexisting use. He concurrently requested that he be allowed to continue the firewood production, and that the earth materials operator, a local entity, be allowed a reasonable period of time to discontinue and wind down the earth processing operations.

The Zoning Enforcement Officer agreed that the firewood production was not in violation and his office would not enforce the cease and desist order as to that operation. He then directed the Board to a subsequent letter from the Building Commission Zoning Officer supporting Petitioner's plan to allow the earth removal operations a period of 90 days to wind down provided noise and truck traffic were controlled.

The Applicant and earth processing operator stated that they would like to finish processing the material currently on site at reduced hours of operation over a 90-day period, with reasonable limitations imposed by the Zoning Board of Appeals. They explained that there would be less truck traffic disturbance in the neighborhood and less dust generated if the processing was allowed to be finished during this season and it moved once as a finished product to a destination, rather than remove it in a short period of time as raw material. Several abutters wrote letters and attended the hearing. Many of the abutters were in support of the Petitioner retaining his existing firewood operations, citing examples of his being a good neighbor with respect for any concerns they had. Abutters opposed to the application were concerned primarily about the noise, dust and activity from the earth processing operations.

FINDINGS

The Board found that the firewood production was ongoing at this site for over 30 years and was allowed; but the commercial earth processing operation was not an allowed use either as a primary or accessory use within the zoning district, or as an agricultural use.

DECISION: The Board voted unanimously to GRANT THE APPEAL of the Zoning Enforcement Officer's cease and desist Order as to the firewood production operations, but to DENY THE APPEAL as to the Commercial Earth Processing Operation, after a 90-day extension for enforcement, with the following conditions to be monitored by the Zoning Enforcement Officer:

1. All operations would be conducted between the hours of 9AM and 3PM Monday through Friday except legal holidays.
2. There will be dust mitigation measures in place
3. No new earth processing materials are to be brought onto the site.
4. All sifting is to be completed by August 31, 2022
5. All materials should be removed by August 31, 2002, with discretion in the Building Department to extend this date

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 Notice in the office of the Town Clerk.

Signed: Marc Saucier
Marc Saucier, Clerk

Dated: 6/1/2022
Deed Reference: Book 72087, Page 150.

I hereby signify that twenty days have elapsed since the filing of the above decision by the Board of Appeals and that no appeal concerning said decision has been filed or that any appeal that has been filed has been dismissed or denied.

Attest: _____ True Copy

Town Clerk
Littleton, Massachusetts