

ZBA Case No.: 22-957 Address 155 King St.

**TOWN OF LITTLETON
BOARD OF APPEALS**

37 Shattuck Street
P.O. Box 1305
Littleton, MA 01460
Tel: 978-540-2420



APPLICATION FOR PUBLIC HEARING

Pursuant to MGL Chapter 40A, 40B and 41 and the Littleton Zoning Bylaws

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

Alex Wheaton

Date:

4/10/22

Print Name

Alex Wheaton

Address

155 King St

Town, State, Zip

Littleton MA 01460

Phone #

978-337-1020

Email Address

Peter.S.Hoe@cityhar.com

Deed Reference: Bk 63198 Page 431

PROPERTY OWNER: include authorization of Owner for Petitioner to represent Owner, if unsigned

Signature

Alex Wheaton

Date

Print Name (if different from petitioner)

Alex Wheaton

Address (if different from petitioner)

Phone #

978-5012410

Email

ASSESSOR MAP & PARCEL NUMBER

U-38-5-0

ZONING DISTRICT: (R) VC B IA IB (Circle all that apply)

Check box if applicable

☐ AQUIFER DISTRICT

☐ WATER RESOURCE DISTRICT

FEES
Residential Property \$200 filing + \$105 recording fee + \$25 abutter list + \$75 public hearing notice = \$405
Commercial Property \$350 filing + \$105 recording fee + \$25 abutter list + \$75 public hearing notice = \$555
Comprehensive Permit \$1000 + \$100/unit over 10 units
Please make check payable to Town of Littleton

U-38-5-0

Appeal

Under MGL 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 MGL 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?

Mandatory: Attach copies of written order or decision under appeal

Administrative Official

Building Insp

Date of order / decision

9/12/22

2. Which statute or Zoning Bylaw do you rely for your appeal?

MGL c.40A §

Zoning Bylaw §

Code of Littleton §

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.

Signature

Print name

Special Permit 40A

Under MGL 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 § 173-7, 173-10

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 petition and 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

Special Permit 40B

Under MGL c. 40B

Variance

Under MGL 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.

- Front setback reduction.*
1. Specifically, from what Zoning bylaw section are you seeking relief? *173-27*
- Rear sideline reduction for detached garage*
2. Why are you seeking relief from a literal enforcement of this Zoning Bylaw?
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 Bylaws.
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

Filing Instructions

1. **IMPORTANT: SEE THE BUILDING COMMISSIONER/ZONING ENFORCEMENT OFFICER BEFORE YOU FILL OUT THIS APPLICATION.** He will assist you with the proper zoning sections and application request(s). His review may save time by preventing delays in the hearing process.
2. Bring the completed application packet to the Administrative Assistant to the Building Commissioner who will assist you in filing with the Town Clerk.

Necessary Exhibits— provide 3 copies and an electronic copy of the following with the completed application:

1. A copy of the most recently recorded plan of land or where no such plan exists, a copy of a plot plan endorsed by a registered engineer or land surveyor. The plan should show;
 - A) metes and bounds of the subject land
 - B) adjacent streets and other names and readily identifiable landmarks and fixed objects
 - C) dimensional layout of all buildings
 - D) distances and setbacks from the various boundaries
 - E) exact dimensions, setbacks and specifications of any new construction, alterations, additions or installations
 - F) direction of North
 - G) the name of each abutting property owner
2. Copy of the latest recorded deed
3. A written statement which details the basis for your petition
4. Pictures, plans, maps, drawings and models are always helpful in explaining the problem
5. In cases pertaining to signs, a scale print of the sign lettering and colors
6. In cases pertaining to subdivisions of land, prints should show the proposed subdivision endorsed by a registered engineer or land surveyor
7. In cases pertaining to Accessory dwellings evidence that the Board of Health has approved the septic system
8. The date of the building construction and the history of ownership are useful in finding facts about the case

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

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 Enforcing 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, 9A, 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, and 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 as 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 a matter 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 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 appellant, 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.**

KING STREET

STREET

NOTES:

- 1.) THIS PLAN WAS PREPARED FROM AN INSTRUMENT SURVEY PERFORMED IN APRIL OF 2022.
- 2.) SUBSURFACE UTILITIES WERE NOT INCLUDED AS PART OF THIS SURVEY. THEY WERE NOT RESEARCHED NOR SHOWN HEREON, EXCEPT FOR THE GAS LINE AND SEPTIC SYSTEM.
- 3.) A TITLE EXAMINATION WAS NOT PROVIDED FOR THIS SURVEY. AS SUCH OTHER MATTERS OF RECORD MAY EXIST AND NOT BE SHOWN HEREON.



RECORD OWNERS:
ALEX & JESSICA WHEATON
155 KING STREET
LITTLETON, MA

REFERENCES:
DEED BOOK 63188 PAGE 431
PLAN 1922 OF 1950

PROPOSED
PLOT PLAN

IN
LITTLETON, MA

AT 155 KING STREET
PREPARED FOR

ALEX & JESSICA WHEATON

BY

SUMMIT SURVEYING INC.

285 LITTLETON ROAD, SUITE 2, WESTFORD, MA
TEL: 978-692-7109
WWW.SUMMITSURVEYINGINC.COM
APRIL 8, 2022

22-0108

No. 151 KING ST.

N/F

MATTHEW LAPAN &
DEBORAH MACEACHERN
BK: 64689 PG:333

No. 159 KING ST.

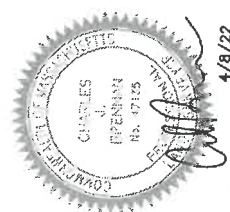
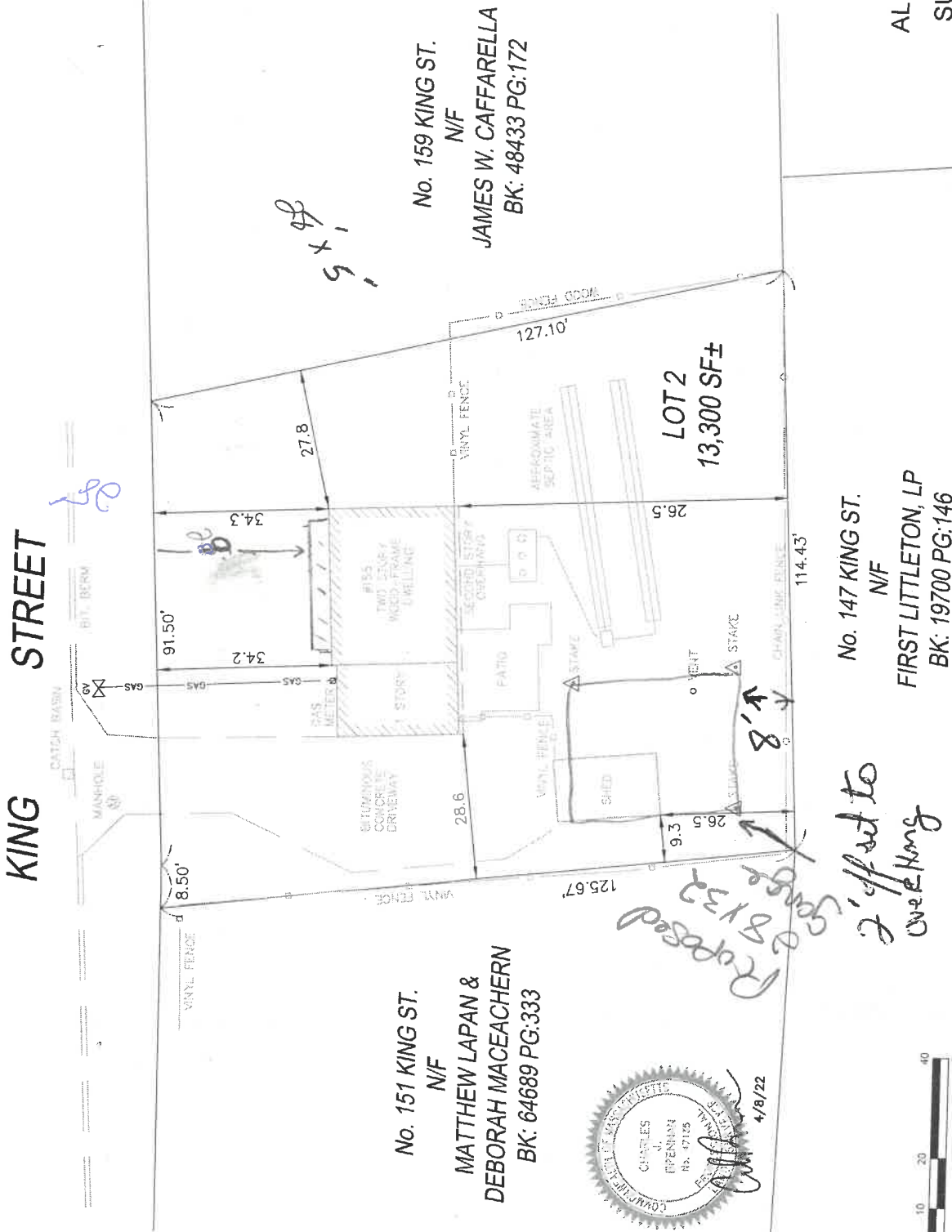
N/F

JAMES W. CAFFARELLA
BK: 48433 PG:172

No. 147 KING ST.

N/F

FIRST LITTLETON, LP
BK: 19700 PG:146



Thank you for banking with Main Street Bank



OVERDRAFT/RETURN ITEM FEES

Total for this period	\$0.00	Total Returned Item Fees
Total year-to-date	\$0.00	Total Overdraft Fees
	\$0.00	

September 05, 2021



TOWN OF LITTLETON
BOARD OF ASSESSORS
P.O. BOX 1305
LITTLETON, MA 01460
(978) 540-2410 FAX: (978) 952-2321

Date: April 25, 2022

Re: **Certified List of Abutters for Board of Appeals (300 feet - public hearings, special permits)**

Applicant: Jess Wheaton
Name of Firm: N/A
Mailing Address: 155 King Street, Littleton, MA 01460

Subject Parcel Location: 155 King Street, Littleton, MA 01460
Subject Owner: Alex Wheaton
Subject Parcel ID: U38-5-0

M.G.L. Chapter 40A, Section 11. "In all cases where notice of a public hearing is required notice shall be given by publication in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid. **"Parties in interest" as used in this chapter shall mean the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the planning board of the city or town, and the planning board of every abutting city or town.** The assessors maintaining any applicable tax list shall certify to the permit granting authority or special permit granting authority the names and addresses of parties in interest and such certification shall be conclusive for all purposes. The permit granting authority or special permit granting authority may accept a waiver of notice from or an affidavit of actual notice to any party in interest or, in his stead, any successor owner of record who may not have received a notice by mail, and may order special notice to any such person, giving not less than five nor more than ten additional days to reply."

I hereby certify the attached list of abutter(s) as stated in the M.G.L. Chapter 40A, Section 11.

Number of Abutter(s) 12 including the subject parcel(s).

Certified by:

Christine Kumar

Christine Kumar, Assistant Assessor

NOTE: This **abutters** list will be **valid** for three (3) months from the date of signature. Please be aware that per **Massachusetts** General Law (G. L. c 66, § 10) this office has up to 10 calendar days to fulfill this request.

7 NEW ESTATE RD U37 1 0
LUC: 931
LITTLETON TOWN OF
CEMETERY DEPT
P.O. BOX 1305
LITTLETON, MA 01460

170 KING ST U37 2 0
LUC: 101
RAFFI RONALD J
RAFFI KATHLEEN ANN
170 KING ST
LITTLETON, MA 01460

169 KING ST U38 1 0
LUC: 013
CM KING PROPERTIES LLC
71 BELLA ROAD
SHARON, MA 02067

163 KING ST U38 3 0
LUC: 101
MONIZ DENISE A
163 KING ST
LITTLETON, MA 01460

159 KING ST U38 4 0
LUC: 101
CAFFARELLA JAMES W
159 KING STREET
LITTLETON, MA 01460

138 KING ST U38 45 0
LUC: 101
BOTTEGO DANIEL W
138 KING ST
LITTLETON, MA 01460

155 KING ST U38 5 0
LUC: 101
WHEATON ALEX
WHEATON JESSICA
155 KING ST
LITTLETON, MA 01460

151 KING ST U38 6 0
LUC: 101
LAPAN MATTHEW
MACEACHERN DEBORAH
151 KING STREET
LITTLETON, MA 01460

147 KING ST U38 7 5
LUC: 112
FIRST LITTLETON LP
C/O LUMENT CAPITAL
SERVICING - TAX ADMINISTRATION
2001 ROSS AVE, 19TH FLOOR
DALLAS, TX 75201
165 KING ST U38 7 A
LUC: 130

AMARTHULURU RAMESH
MEKALA RAVEENDRA
71 BELLA ROAD
SHARON, MA 02067

143 KING ST U38 8 0
LUC: 970
LITTLETON HOUSING AUTHORITY
19 SHATTUCK ST
LITTLETON, MA 01460

139 KING ST U38 9 0
LUC: 104
BROOKS MARK B TRUSTEE OF
BROOKS PROPERTIES REALTY TRUST
P O BOX 683
ACTON, MA 01720



Littleton, MA

1 inch = 555 Feet

April 25, 2022

