



OFFICE OF THE
LITTLETON BOARD OF APPEALS
LITTLETON, MASSACHUSETTS 01460

received
1/30/2020 2:30pm
Blake Cray

Petitioner: CHARLES E. BELL

Case No: 937A

Address: 474 Great Road

Date Filed: November 8, 2019

The Littleton Board of Appeals conducted a public hearing on January 16, 2020, at 7:30 P.M., continued from December 19, 2019, at the Shattuck Street Municipal Building, Shattuck Street, Littleton, for a Variance pursuant to Section 173-167, to allow less than a 3 acre minimum for a business property in the Littleton Village Overlay District West Beaver Brook Area, at 474 Great Road, Littleton, Ma. Notice of the hearing was given by publication in the Littleton Independent, a newspaper circulated in Littleton, on November 29, and December 6, 2019, and by mail to all abutters and parties in interest. Present and voting: Sherrill R. Gould, Chairman, Cheryl Hollinger, Marc Saucier, and Rod Stewart, Members and Kathleen O'Connor, Alternate. Present and not voting were John Sewell and John Field.

The Petitioner presented a request for Variance as a companion case and in conjunction with an earlier filed Appeal of the Decision of the Zoning Enforcement Officer which essentially ordered him to cease a business use in the zone because his lot was less than the required 3 acres for the Overlay Special Permit, and because his business use at the address exceeded the employee limitations of home occupation. The Petitioner was unrepresented by counsel and reserved his right both to engage counsel for an appeal of any denial of this variance; and to be represented on the companion case. The Board agreed to hear the variance and with Petitioner's consent to continue the Building Inspector appeal to a date in the future to allow Petitioner to both seek approval of this Variance and to obtain a subsequent special permit from the Planning Board for the use.

The Board reiterated a set of facts concerning this property.

The Petitioner's property is on Route 119, a state highway with significant traffic and is close to abutting the Route 495 ramps. The Petitioner conducts a retail sales and service locksmith shop in a detached garage building at that location and resides in the home on the property. When the commercial development across the state route from Petitioner, The Point, was envisioned by the Town to be developed, Petitioner was requested to cooperate with the planned development by assenting to a friendly taking of the corner of his property for a traffic signal and for a turn lane to enhance the traffic situation at The Point. As a *quid pro quo* for that cooperation, he and an abutter were offered to have their properties included in a proposed zoning change to be included in the Village Overlay District, which would then ideally legitimate the business use of his property and afford both owners options with respect to the increased traffic the improvements would generate. At Town Meeting in 2011 that voting change was approved, and Petitioner, relying upon that vote increased his business operations at the site. It was later discovered (via the Building Department enforcement order) that the Village Overlay had a minimum 3 acre requirement for businesses to be approved in the zone by special permit. It appears that both the Planning Board and the voters did not intend the result that by including these properties in the

Village Overlay they would be removing the business options due to the lots' small size. It appears that the mistake was an unfortunate oversight.

No abutters appeared in opposition. The Building Department opined that even if the acreage relief were granted, the Petitioner would still need to obtain a Special Permit for the use from the Planning Board. The Board discussed the unfairness of the failed consideration and the hardship it presented to Petitioner who relied upon the agreements, discussions and town meeting votes in growing his business for the last 8 to 9 years. The Board found the lot was certainly unique in that it was previously zoned residential but due to the commercial development, is now surrounded by business use and commercial vehicular traffic on three sides.

FINDINGS: The Board found that the lot was unique in topography, slope and location, and that the requested relief would not be substantially more detrimental to the neighborhood than the commercial development existing in the neighborhood.

DECISION: The Board voted unanimously to GRANT a Variance from the 3 acre minimum of lot size contained in Section 173-169 of Article XXV, to allow Petitioner to seek a Special Permit for his use from the Littleton Planning Board.

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: 

Date: January 30, 2020

Book: 50495, Page 15.

I hereby signify that twenty (20) 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.

True Copy Attest: _____ Town Clerk, Littleton, Massachusetts