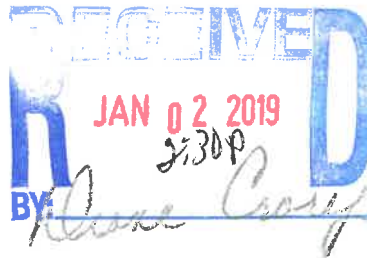


Petitioner: James McNiff
Case No. 912A
Date Filed: November 14, 2018



The Littleton Board of Appeals conducted a public hearing on December 20, 2018, at the Shattuck Street Municipal Building on the petition of James McNiff to appeal the Building Inspector's Decision of October 4, 2018, ordering him to cease and desist "the truck activity, remove all commercial trucks and trailers, storage containers and commercial product from the property" at 1 Shattuck Street, Littleton, Massachusetts. Notice of the hearing was given by publication in the Littleton Independent, a newspaper published in Acton and circulated in Littleton on December 6 and 13, 2018 and by mail to all abutters and parties in interest. Present and voting: Sherrill Gould, Chairman, Members, Jeff Yates, Rod Stewart, and Alan Bell, and alternate, John Sewell. Present and not voting was member, Katherine O'Connor.

The petitioner, represented by Atty. Chris Worthy, explained that he was appealing the determination of the building inspector that he is conducting a business from his residential property at 1 Shattuck Street, Littleton, Ma. The property consists of a single family residential dwelling with barns and outbuildings in a residentially zoned neighborhood. The petitioner has an established retail appliance business in the Town of Littleton and for decades has stored used appliances for delivery, sale and disposal in the barn on the premises. Neighbors complained recently about the frequency of truck traffic to and from the site at all hours, including weekends, and the building inspector was called to inspect and make a determination.

Petitioner's counsel argued that the truck traffic is all from personal truck vehicles belonging to the occupants of the property and that they are not conducting business from the site, but that they come and go during the day for meals and to retire in the evening. There are five adult drivers who reside on the premises.

The history of the site is that in 1986 the applicant was ordered to remove commercial product and trucks, the petitioner previously applied for a variance to store appliances at the site, which was denied. In 1988 the applicant was ordered to remove sales banners, trucks and appliances. Photographs were submitted by the abutters and the building inspector. Photographs show that the truck traffic to and from the site include hook trucks and commercial type vehicles used in the container business, not just pickup trucks, vans and small trucks. Photos show the site admittedly has an abundance of tractor trailer boxes, land/sea trailer/containers, all size recycling containers, used appliances and large trucks and trailers. When pressed about the "business operation" at the site, the petitioner admitted that when the transfer station is closed and he has a container he's retrieved, he brings it to the site to store until the transfer stations reopens.

Several abutters appeared in opposition to the Petitioner's appeal. They showed time photos of the commercial activity going on at the site and made it clear that there was a large scale commercial operation going on at the site. This was not an incidental occurrence of personal trucks being housed overnight for the occupants, but it was a storage and staging location for a commercial recycling operation.

FINDINGS: The Board found that the Building Inspector's decision was correct and the Petitioner was operating a commercial business in the residential zone, but it would require more than 30 days to remediate the situation.

DECISION: The Board voted unanimously to DENY Petitioner's appeal of the Building Inspector's decision, but granted the Petitioner 60 days to comply with the order.

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: _____

Alan Bell, Clerk

Dated: January 2, 2019

Deed Reference: Book 25272, Page 299.

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.

Town Clerk

True Copy Attest: _____

Littleton, Massachusetts