

169 King St. ZBA Case No.: 897A

**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

Received
L. Lord 5/24/18

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ 300

Check # 1509

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.

Deborah A. Richards

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

Joseph Azzolino

Print Name

77 Hartwell Ave

Address

Littleton, MA 01460

Town, State, Zip

Date: 5/22/18

978-828-7062

Phone #

jazzolino @ ownnewengland.com

Email Address

Deed Reference: Bk 58195 Page 155

FEES

Residential Property \$200 filing fee + \$75 recording fee + \$25 abutter list = \$ 300 to Town of Littleton
Commercial Property \$350 filing fee + \$75 recording fee + \$25 abutter list = \$ 450.00 to Town of Littleton
Comprehensive Permit \$1000 + \$100/unit over 10 units

ADDITIONAL FEES: ALL APPLICATIONS:
Legal Notice publication fee to be paid prior to opening the hearing

169 King Street

ZBA Case 897A

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

Caroline Cummings

Date

Caroline Cummings

Print Name (if different from petitioner)

77 Hartwell Ave Littleton

Address (if different from petitioner)

978-828-4047

Phone #

CAROL.Azzolino@gmail.com

Email

ASSESSOR MAP & PARCEL NUMBER U38 1

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

Check box if AQUIFER DISTRICT
applicable

WATER RESOURCE DISTRICT

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

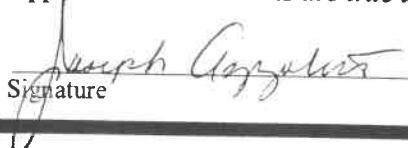
Administrative Official Building Inspector Date of order / decision 5/10/2018

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 § _____

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

Special Permit 40B

Under MGL c. 40B

See supplemental instructions: Littleton Zoning Board of Appeals Rules for the Issuance of a Comprehensive Permit under M.G.L.c40B

Cummins Family Trust
169 King St.
Littleton, Ma 01460

May 22, 2018

Town of Littleton
Building Inspector
Roland Bernier

The purpose of this letter is to address your decision pursuant to the multi-family home located at 169 King Street, Littleton.

In an email addressed to Mr. Jason M. St. Pierre, Esquire, dated May 10, 2018, you have stated your opinion, when asked by a potential buyer's attorney, that the existing multi-family home is "in the eyes of the Littleton Building Department this building is still a single-family dwelling unit".

While we agree that the current building department files do not show any permits regarding a conversion to a multi-family, however, the owner had purchased the home (after a fire) and restored it to its present condition. I have attached the purchase deed for your reference. This occurred in 1978

Furthermore, I'd like to present to you a few affidavits stating that between 1980 to 1983, the home was rented as a multi-family dwelling and has been ever since, some 39 years later.

The current ownership is contenting that this home should be considered "pre-existing, non-conforming use". Toward that end, I'd like you to reconsider your position and zoning opinion based pre-existing, non-conforming use.

Respectfully,

Cummins Family Trust

Caroline Cummins *Caroline L. Cummins*
Carol Cummins Azzolino *Carol Azzolino*

I was out at closings all day. Below is an email I received from the building inspector. Lets touch base on Monday. Thanks

Jason M. St. Pierre, Esquire

St. Pierre & St. Pierre, P.C.

291 Grafton Street

Shrewsbury, MA 01545

Tel: 508-842-1000

Fax: 508-842-9666

www.stpierre-law.com

From: Roland Bernier [<mailto:RBernier@littletonma.org>]

Sent: Thursday, May 10, 2018 4:03 PM

To: Jason St.Pierre <jason@stpierre-law.com>

Subject: 169 King Street

Hello Jason,

A review of town files shows the house as a single family dwelling up to 1995. I have been building Commissioner since 1985 and do not recall ever inspecting work at this house. Three family dwellings have never been allowed in Littleton except through the comprehensive permit process. That aside, any work modifying the building into a three family has never been permitted through this department and therefore verification of building code fire separation verified. In the eyes of the Littleton Building Department this building is still a single family dwelling until.

There are two options to rectify this matter;

1. Seek a special permit from the Littleton Board of Appeals for the conversion of a single family dwelling into a two family dwelling §173-68. You are eligible for this special permit because your structure was in existence prior to March 5, 1951. See https://www.littletonma.org/sites/littletonma/files/uploads/littleton_zoning_code_v.45_1.pdf
2. Two family dwellings are allowed by right only if in compliance with §173-58 Accessory Apartments, and Accessory Apartments allowed by right §173-60. See https://www.littletonma.org/town-meetings/pages/may-1-2017-annual-town-meeting#anchor_article_17

As always building permits are required for all alterations.

Roland Bernier

Building Commissioner

Zoning officer

R.H. ✓

APR 25 1978 AM 03:37 01/78E * 11:00

AMREVEST, Incorporated
 a corporation duly established under the laws of Massachusetts
 and having its usual place of business at Quannapowitt Parkway
 Wakefield, Middlesex

County, Massachusetts, for \$31,800
 consideration paid.

grants to James J. Cummins, Jr.

of 170 King Street, Littleton, Middlesex County with quitclaim documents
 Massachusetts

the deed is:

[Description and encumbrances, if any]

SEE PLAN IN RECORD BOOK / 3227 PAGE 0 86
 363

The land with the buildings thereon, located in Littleton, Middlesex County, Massachusetts and being shown on a plan of land in Littleton, surveyed for AMREVEST, Incorporated by Charles A. Perkins Co., Inc. dated January 1978 to be recorded herewith, bounded and described as follows:

Beginning on the southerly side of King Street at the corner of land now or formerly of George B. and Priscilla C. Caldwell;

Thence running North 89°-03'-48" East along said King Street one hundred twelve and 48/100 (112.48) feet to a Massachusetts Highway bound;

Thence running South 43°-10'-32" East by Interstate Route 495 one hundred forty-nine and 9/100 (149.09) feet to a Massachusetts Highway bound;

Thence running South 9°-07'-15" East by Interstate Route 495 two hundred six and 16/100 (206.16) feet to a Massachusetts Highway bound;

Thence running South 76°-35'-15" West by land now or formerly of AMREVEST, Incorporated two hundred twenty-four and 6/100 (224.06) feet to a concrete bound;

Thence running North 4°-36'-26" West by lands of said AMREVEST, Incorporated and George B. and Priscilla C. Caldwell three hundred sixty-three and 59/100 (363.59) feet to the point of beginning;

Containing 1.53 acres of land, more or less.

Being a portion of Parcel 11 as described in the deed from American Mutual Corporation to One Nineteen Corporation dated December 27, 1972 recorded with Middlesex South District Deeds in Book 12354 at Page 094 (See Pages 103 & 104).

Certificate of Change of Name dated February 22, 1978 to be recorded herewith.

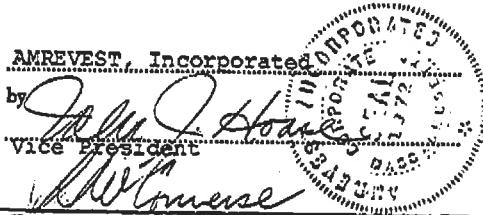
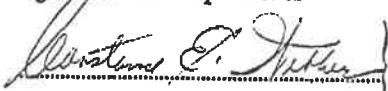
The premises are conveyed subject to an Option Agreement between the parties hereto to be recorded herewith for the purchase of an easement in and within that strip of land shown on and marked "Right of Way" on the Plan of Land by Charles A. Perkins Co., dated January 1978, referred to above and to be recorded herewith.



In witness whereof, the said AMREVEST, Incorporated
has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and
delivered in its name and behalf by John J. Hoare, its Vice President, and
Herbert W. Converse, its Treasurer, hereto duly authorized, this 15th

day of April in the year one thousand nine hundred and 78

Signed and sealed in presence of



Treasurer

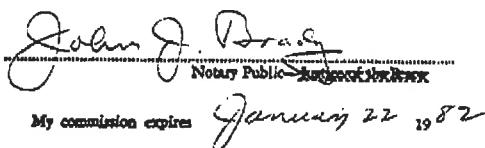
The Commonwealth of Massachusetts

Middlesex ss.

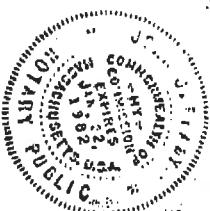
April 5 1978

Then personally appeared the above named John J. Hoare and Herbert W. Converse
and acknowledged the foregoing instrument to be the free act and deed of the AMREVEST,
Incorporated

before me



John J. Brady
Notary Public, State of Massachusetts
My commission expires January 22, 1982



Property Address: King St. & ⁷⁴ Mill Rd., Littleton, MA.

QUITCLAIM DEED

We, JAMES J. CUMMINS JR., and CAROLINE L. CUMMINS, of Littleton, Middlesex County, Massachusetts

in consideration of LESS THAN ONE HUNDRED AND 00/100 DOLLARS (\$100.00)

grant to JAMES J. CUMMINS, JR., CAROLINE L. CUMMINS and CAROL L. AZZOLINO, Trustees OF THE CUMMINS FAMILY TRUST, under a Declaration of Trust dated November 19, 2002, a certificate of which is recorded with Middlesex South District Registry of Deeds herewith, *both of 74 mill Rd., Littleton, MA. 01460*

With Quitclaim Covenants

three certain parcels of land with the buildings thereon situated in Littleton, in the County of Middlesex, and said Commonwealth, as follows:

The Grantor specifically reserves a Declaration of Homestead in this property, which was recorded with said Deeds in Book 24743, Page 592.

King St. & Mill Rd., Littleton, MA.

Executed as a sealed instrument under the pains and penalties of perjury on March 29, 2009.

James J. Cummins Jr.
JAMES J. CUMMINS, JR.
Caroline L. Cummins
CAROLINE L. CUMMINS

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Date: March 29, 2009

On this day, before me, the undersigned notary public, personally appeared JAMES J. CUMMINS, JR. And CAROLINE L. CUMMINS, to me through satisfactory evidence of identification which was valid driver's licenses, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose

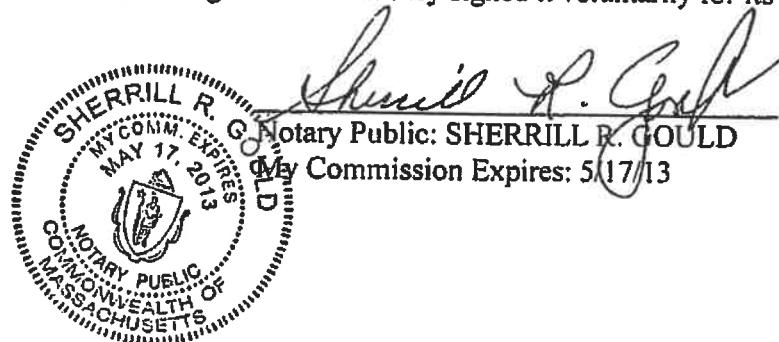


EXHIBIT A

PARCEL I

Property Address: 169 King Street, Littleton, MA 01460

The land in Littleton with the buildings thereon now known and numbered 169 King Street shown on the plan entitled, "Land in Littleton, Mass. Surveyed for Amrevest, Incorporated," by Charles A. Perkins Co. Inc., dated January 1978 recorded with Middlesex South District Deeds in Book 13427 at Page 086, said land being marked thereon, "1.53 acres."

Meaning and intending to convey the premises acquired from Amrevest, Incorporated, by deed dated April 5, 1978 recorded with said plan.

Being the same premises conveyed in Book 20115, Page 402 Middlesex South District Registry of Deeds.

PARCEL II

Property Address: King Street, Littleton, MA 01460

The land with the buildings thereon, located in Littleton, Middlesex County, Massachusetts and being shown on a plan of land in Littleton, surveyed for AMREVEST, Incorporated by Charles A. Perkins Co., Inc. dated January 1978, bounded and described as follows: *See Plan 362 of 1978.*

Beginning on the southerly side of King Street at the corner of land now or formerly of George B. and Priscilla C. Caldwell;

Thence running North 89°-03'-48" East along said King Street one hundred twelve and 48/100 (112.48) feet to a Massachusetts Highway bound;

Thence running South 43°-10'-32" East by Interstate Route 495 one hundred forty-nine and 9/100 (149.09) feet to a Massachusetts Highway bound;

Thence running South 9°-07'-15" East by Interstate Route 495 two hundred six and 16/100 (206.16) feet to a Massachusetts highway bound;

Thence running South 76°-35'-15" West by land now or formerly of AMREVEST, Incorporated two hundred twenty-four and 6/100 (224.06) feet to a concrete bound;

Thence running North 4°-36'-26" West by lands of said AMREVEST, Incorporated and George B. and Priscilla C. Caldwell three hundred sixty-three and 59/100 (363.59) feet to the point of beginning;

Containing 1.53 acres of Land, more or less.

Being the same premises conveyed in Book 13427, Page 086 Middlesex South District Registry of Deeds.

PARCEL III

Property Address: 74 Mill Road, Littleton, MA 01460

The land in Littleton with the buildings thereon now numbered 74 Mill Road shown as Lot 1 on the plan entitled, "Land in Littleton, Mass. surveyed for JAL Realty Trust," by the Perkins Company (No, 5300) dated December, 1983 recorded with Middlesex South District Deeds in Book 15473 at Page 174, containing, according to said plan, 2.9 acres.

Being one of the four lots acquired from the JAL Realty Trust by deed dated March 5, 1984 recorded with said Deeds in Book 15473 at Page 174.

There shall be appurtenant to Lots 3 and 4 shown on said plan, in common with Lot 1, the right to use, as a common driveway, the strip of land thirty-five feet wide extending northeasterly from Mill Road along Route 495 marked upon said plan, "Part of Lot 1."

By the acceptance hereof the Grantees and their successors and assigns hereby covenant and agree wit the Grantor and his successors and assigns that:

1. The owners from time to time of said Lots 1, 3 and 4 shall jointly maintain said common driveway in good order and condition, properly maintained and free of accumulations of snow, ice and debris.
2. Said owners shall jointly bear the cost of such maintenance, repairs, reconstruction, plowing and grading, the share of each lot owner to be determined upon the basis of the percentage of the total driveway from Mill Road used by each.
3. The owners of said lots shall restrict their use of the surface of said driveway to that of ingress and egress and shall not impede the passage of foot or vehicular traffic on said driveway by parking on it, except that occasional overflow of guests' vehicles will be permitted if such vehicles are parked parallel with and as close to the perimeter of said private driveway as is possible.

4. Each owner shall have the right to commence an action at law or in equity to compel compliance with the aforesaid covenants and agreements.

There shall be appurtenant to lot 3 an easement across Lot 4 15 feet in width as a means of access to Mill Pond in the location of the number, "518" shown on said plan on the northwesterly line of Lot 3.

Being the same premises conveyed in Book 17610, Page 210 Middlesex South District Registry of Deeds.

10/2011 000
Littleton 25

NASHOBA ASSOCIATED BOARDS OF HEALTH

ENVIRONMENTAL HEALTH DIVISION

AYER, MA 01432

978 772-3338

SEWAGE DISPOSAL WORKS CONSTRUCTION PERMIT

Permit For: LOCAL UPGRADE APPROVAL AND LOCAL VARIANCE(S)

ISSUED FOR THE

Littleton

BOARD OF HEALTH

OWNER THE CUMMINS FAMILY TRUST

Non transferable - former permit transfer must be requested upon change of ownership

LOCATION OF LOT: 169 KING ST.

MAP/PARCEL: U-38/167A

Date Permit Issued:

Lot Size: 1.54 ac

Soil Description: 0-32" T&S: 32-68" C1 COS: 68-96" S&G: ESHWT 18"

Groundwater: ESHWT 18"

PERC RATE: 2 MPI

ENGINEERING OR SPECIAL PREPARATION:

System to be installed according to engineered plan No: 05-067D

Dated: 2/9/2018 Rev.: 2/26/2018

By: CIVIL SOLUTIONS INC

Bedroom Count: THREE 1 BEDROOM APTS (330GPD) HOUSE

Water Supply: Well Town

Primary Installation: 2000 GAL 2-COMP SEPTIC TANK W/TEE FILTER; 1000 GAL PUMP CHAMBER (H2O TANKS)

Secondary Installation: 10 X 45' LEACHFIELD - VENTED.

Special Notes:

FINAL FILL AND GRADING TO BE NOTED ON THE ENG AS-BUILT PLAN. LOCAL UPGRADE APPROVAL AND LBOH VAR. GRANTED (OUTLET OFFSET TO GW, LOADING RATE). WATER LINE TO BE RELOCATED. MANHOLE TO GRADE OVER INLET SIDE OF SEPTIC TANK. INSTALLER TO VERIFY BUILDING SEWER ELEVATION PRIOR TO CONSTRUCTION. DUAL PUMPS NEEDED.

PERMIT PREPARED FOR BOARD BY NASHOBA HEALTH DEPARTMENT AGENT: 2/27/2018

I agree upon accepting this PERMIT to comply with all Board of Health regulations and the State Environmental Code during all phases of installing the septic system.

SIGNED:

Owner Contractor Licensed Installer

Record of Inspections

NABH Licensed Installer

INSPECTIONS REQUIRED

<input checked="" type="checkbox"/> FIELD	excavation, before fill/stone by	<input checked="" type="checkbox"/> Eng	<input checked="" type="checkbox"/> NABH	insp. Date	insp. By:
<input checked="" type="checkbox"/> Fill in place by	<input type="checkbox"/> Engineer	<input checked="" type="checkbox"/> NABH			
<input checked="" type="checkbox"/> Completed system prior to backfill					
<input checked="" type="checkbox"/> Final fill and grading	ON ENG AS-BUILT PLAN				
<input checked="" type="checkbox"/> Engineer certification in writing of completed system					
<input checked="" type="checkbox"/> As built plans	<input checked="" type="checkbox"/> by design engineer	<input checked="" type="checkbox"/> by Installer			
<input type="checkbox"/> Well completion report and water test submitted to this office					
<input type="checkbox"/> Recorded deed/fill easements submitted to this office					
<input checked="" type="checkbox"/> TEST PUMP/ALARM.					
<input checked="" type="checkbox"/> INLET PLATE, MAX TURB. RISERS					
<input checked="" type="checkbox"/> All inspections completed					

A NEWHOUSE CANNOT BE OCCUPIED OR SOLD UNTIL A CERTIFICATE OF COMPLIANCE IS OBTAINED.

