

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 Board of Appeals. Action taken by the Building Commissioner acting under the Code of Enforcement Control Law 152 will also be heard by the Board of Appeals. If the Zoning Enforcement 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 before the permit may be issued by the Building Commissioner for use or structure that requires a Special Permit under 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 23% 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 is 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 that 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 finds 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.

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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 By-laws

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

Ernie O. Menzies Date: 9-18-18

Ernie O. Menzies Address: 109 Matawanake Tr Phone # 978-618-5707
Littleton MA 01460 Email Address: erniesmenzies@gmail.com
Town, State, Zip Deed Reference: 8K34 36-1 Page 710

PROPERTY OWNER: Signature

[Signature] Date: 10/10/18 Owner for Petitioner to represent Owner, if unsigned

Print Name (if different from petitioner) _____ Phone # _____

Address (if different from petitioner) _____ Email _____

Address (if different from petitioner)

ASSESSOR MAP & PARCEL NUMBER 1147-18

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

Check box if ☐ AQUICFER DISTRICT applicable

☐ WATER RESOURCE DISTRICT

Page 1

Adopted 4-17-14

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
ADDITIONAL FEES: ALL APPLICATIONS:
Comprehensive Permit \$1000 + \$1000/unit over 10 units
Legal Notice publication fee to be paid prior to opening the hearing

ZBA Case

909A

109 Matawanake Tr

TOTAL PAGES: 2

MASSACHUSETTS QUITCLAIM DEED

We, Neil B. McCann and Karen K. McCann, husband and wife, of 109 Matawanakee Trail, Littleton, Massachusetts,

in full consideration of six hundred forty five thousand dollars and 00/100 (\$645,000.00) dollars

grant to: Ernest O. Merrill, III, and Barbara J. Smith, as joint tenants with rights of survivorship, now of 109 Matawanakee Trail, Middlesex County, Massachusetts,

with quitclaim covenants

The land, with the buildings thereon, in Littleton, Middlesex County, Massachusetts, on the northeasterly side of Matawanakee Trail, being shown as Lots 55, 56 and 57 on "Plan of Land in Littleton, Mass., Prepared for Ed and Marie Lund" dated April 28, 1997, Scale: 1 inch = 40 feet, R. Wilson and Associates, Land Surveyors and Civil Engineers, which plan is recorded in Book 30174, Page 373 as Plan 513.

Excepting therefrom Parcel A as shown on said plan conveyed to Marie T. Lund by deed recorded in Book 30174, Page 374.

The lot herein conveyed contains 25,441 square feet according to said plan.

Grantors hereby release any and all rights of homestead in said property.

Meaning and intending to convey the same premises conveyed to us by Deed of Michael S. Field and Janet C. Field, dated May 14, 1999 and recorded in Middlesex South Registry of Deeds, Book 30174, Page 375.

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Property Address: 109Matawanakee Trail, Littleton, MA
01460

October 21, 2018

ZBA Board Members,

Thank for meeting with us. We are the owners of 109 Matawanakee Trail here in Littleton. We are asking for a variance to build a detached 40x30 garage.

Due to the shape of our lot and the setback requirements from the property line, septic system and the lake, the area proposed is the only option for the garage. The total square footage of our home is 4,742sq ft. The proposed garage will be a 40x30 footprint with one street level and a walk out basement level in the back for a total of 2,400sq ft. We have had the area staked out by an engineer and the proposed area meets all the required setbacks. We will have prestressed concrete floors installed. The location will not impede on any neighbors view of the lake. There are already sheds in the location.

The street view will have three 10x10 garage doors. The back side will be a walk out basement with two 10x12 garage doors. The basement level will be used to store our boats on trailers which the garage doors would be taller.

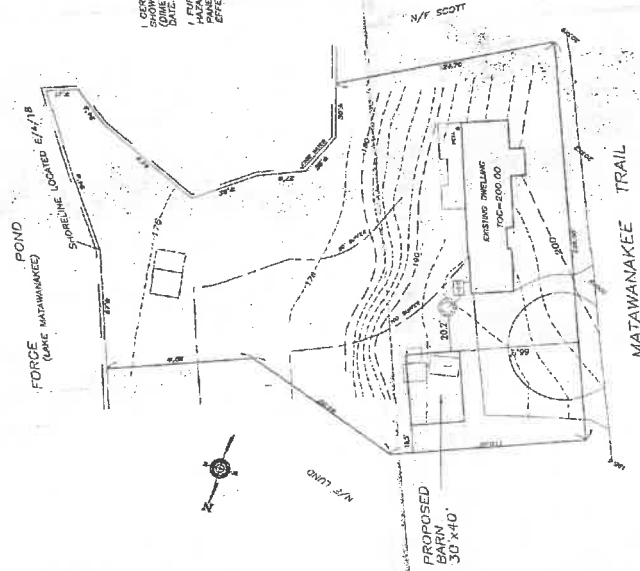
We have provided photos of the proposed site of the garage as well as samples of what the garage will look like.

Thank you,

Ernie and Laurie Merrill

DESD REFERENCE: BOOK 94897, PAGE 076
 PLAN REFERENCE: PLAN 489 OF 1945
 ASSESSOR'S REFERENCE: MAP U-27, PARCEL 18
 ZONING DISTRICT: RESIDENTIAL

I CERTIFY THAT THE PROPOSED BARN STRUCTURE, IF CONSTRUCTED WHERE SHOWN ON THIS PLAN, WILL COMPLY WITH THE ZONING AND DIMENSIONAL REQUIREMENTS OF THE TOWN OF LITTLETON AS OF THIS DATE.
 I FURTHER CERTIFY THAT THE STRUCTURE WILL NOT BE IN THE FLOOD ZONE SHOWN ON THE FLOOD MAP OF THE TOWN OF LITTLETON, MASS., PANEL 226 OF 556, AS AMENDED BY RESOLUTION 100228E, EFFECTIVE DATE: JUNE 4, 2010



PLAN OF LAND
 SHOWING A
 PROPOSED BARN
 AT
 109 MATAWANAKEE TRAIL
 IN
 LITTLETON, MASS.

R. WILSON AND ASSOCIATES
 100 STATE STREET, SUITE 200
 LITTLETON, MASS. 01761
 508-253-1234
 508-253-1235
 508-253-1236