

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 29, 31, 32, and 33.

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 action 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-law. 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 appealed 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 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 final.

What is a Chapter 40A Special Permit?

Certain uses of property are permitted as a matter of right. However, the Littleton Zoning By-law provides 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 requires 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-law 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-law 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.

ZBA Case No. 846A Site address 37 Ayer Rd

TOWN OF LITTLETON BOARD OF APPEALS 37 Shelburn Street P.O. Box 1305 Littleton, MA 01460 Tel: 978-640-2420	
APPLICATION FOR PUBLIC HEARING Pursuant to MGL Chapter 40A, 40B and 41 and the Littleton Zoning By-law	
TOWN USE ONLY Received by the Town Clerk Office 4-10-14 13-23-2014	The filing is not official until stamped by the Town Clerk Filing Fee paid: \$ <u>350</u> Check # <u>33180</u>

Pursuant to the provisions of Chapter 40, § 97 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 [Signature] Date 12/11/14

Print Name Sandra Ayer Address 35 Ayer Rd City Littleton State MA Zip 01532

Address 35 Ayer Rd City Littleton State MA Zip 01532

Town, State, Zip

PROPERTY OWNER: Include authorization of Owner for Petitioner to represent Owner, if assigned

Signature [Signature] Date 5/24/14

Print Name [Signature] Address 35 Ayer Rd City Littleton State MA Zip 01532

Address 35 Ayer Rd City Littleton State MA Zip 01532

ASSASSOR MAP & PARCEL NUMBER U43 3-2

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

Check box if ☒ AQUICER DISTRICT

☒ WATER RESOURCE DISTRICT

FILING FEES
 Residential Property \$200 to Town of Littleton
 Comprehensive Property \$350 to Town of Littleton
 Comprehensive Permit \$1000 + \$100/unit over 10 units
 opening hearing \$75 to Town of Littleton
 Legal Notice publication fee due prior to \$75 to Town of Littleton (see applications)

ZBA Case No. 846A Site address 37 Ayer Rd

Appeal

Under MGL c. 40A § 9

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

Date of order / decision

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 Permit is expressly permitted in the Zoning Bylaw. 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 MGL c. 40B

Page 2

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.

1. Specifically, from what Zoning bylaw section are you seeking relief? 173-35 d(1)

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 FILE. OUT THIS APPLICATION. He will assist you with the proper zoning section and application request(s). His review may save time by preventing delays in the hearing process.

2. Apply for a certified abutters list with the Assessment Office (request for certified list of abutters form enclosed)

3. 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 14 copies of the following with the completed application:

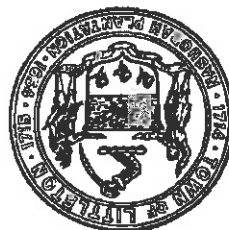
- A copy of the most recently recorded plan of land or where no such plan exists, a copy of a plot plan endorsed by a registered engineer or land surveyor. The plan should show:
 - lot lines and bounds of the subject land
 - adjacent streets and other names and readily identifiable landmarks and fixed objects
 - dimensional layout of all buildings
 - distances and setbacks from the various boundaries
 - exact dimensions, setbacks and specifications of any new construction, alterations, additions or installations
 - direction of North
 - the name of each abutting property owner

- Copy of the latest recorded deed
- A written statement which details the basis for your petition
- A written statement which details the basis for your petition
- Pictures, plans, maps, drawings and models are always helpful in explaining the problem
- In cases pertaining to signs, a scale print of the sign lettering and colors
- In cases pertaining to subdivisions of land, prints should show the proposed subdivision endorsed by a registered engineer or land surveyor
- In cases pertaining to Accessory dwellings evidence that the Board of Health has approved the septic system
- The date of the building construction and the history of ownership are useful in filing 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

Page 3

FROM THE OFFICE OF THE
BUILDING COMMISSIONER
37 SHATTUCK STREET, P.O. BOX 1306



11-12-14

Dave Randa
8 Cider Hill Lane
Sherborn, MA 01770

Re: Building Permit Application

385 - 14

@

37 AYER ROAD

Dear Applicant,

Your application for a Building Permit has been reviewed. The following information does not conform to the requirements of 780 CMR and/or pertinent laws under the building official's jurisdiction.

monument sign exceeds the 50 square foot limit of the Littleton Zoning Bylaws §173-35C(1)

Your application is rejected until such time the above noted information is resubmitted in compliance with 780 CMR and all laws and ordinances applicable thereto to the satisfaction of the building official. (§111.1 MSBC)

Sincerely,

ROLAND J. BERNIER
Building Commissioner



35 Lyman Street
Northboro, MA 01532

508 393-8200
508 393-4244 Fax
signs@ViewPointSign.com
www.ViewPointSign.com

INTERIOR/EXTERIOR SIGNAGE

Electric
Architectural
Dimensional
Wayfinding
Channel Letters
LED/Neon
Electronic Message Centers
Digital Graphics

AWNINGS

Commercial
Backlit
Canvas
Retractable

SIGN SERVICE

ARCHITECTURAL METAL FABRICATION

VEHICLE GRAPHICS

MEMBERS

Massachusetts Sign Association
Rhode Island Sign Association
International Sign Association
Northeast Signs Sign Association
North East Canvas Products Association
Industrial Fabricators Association
International
UL LISTED FABRICATORS

Landlord Authorization

Date: 10/2/14

To whom it may concern:

Eric O'Brien + Keller, O'Brien

Owner of the property located at 37 Ayea Rd

Littleton, MA

Do hereby consent to allow ViewPoint Sign and Awning to act on my behalf pertaining to permitting and installation of signs and/or awnings for the property named above.

Sincerely,

Address 336 Baker Ave. Concord MA 01742

Telephone 508 481 8200

Email: eric@obriencommercial.com

(Please print carefully)

Deeded name of property:

Nehemiah LLC

Card 1 of 1

Location 37 AYER RD Property Account Number Parcel ID U43 3 2

Current Property Mailing Address

Owner NEHEMIAH LLC
C/O O'BRIEN COMMERCIAL
PROPERTY
Address 5 MT ROYAL AVE
City MARLBOROUGH
State MA
Zip 01752
Zoning

Current Property Sales Information

Sale Date 11/15/2013
Sale Price 1,836,500
Legal Reference 62930-541
Grantor(Seller) D.E.A.K. CORPORATION

Current Property Assessment

Year 2014
Land Area 7.430 acres
Building Value 1,194,600
Xtra Features Value 21,600
Land Value 467,100
Total Value 1,683,300

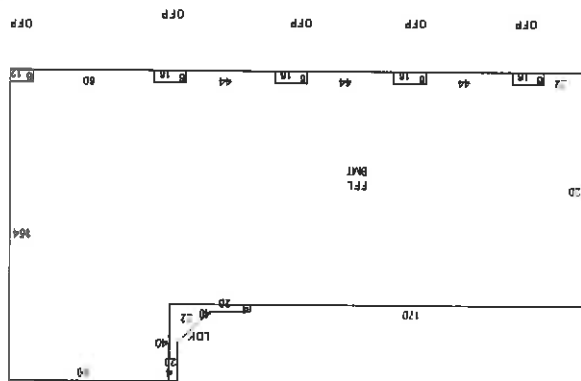
Narrative Description

This property contains 7.430 acres of land mainly classified as FACTORY with a(n) INDUS style building, built about 1986 , having CONC BLOCK exterior and TAR+GRAVEL roof cc with 6 unit(s), 0 total room(s), 0 total bedroom(s), 0 total bath(s), 0 total bath(s).

Legal Description

Property Images

Click To Enlarge



Property Address: 37 Ayer Road, Littleton, MA

Schmitt & Dillon
233 Main Street
Lancaster, MA 01523

MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 11/15/2013 10:58 AM
Cmt: 00238783 Doc# 00238783
Fee: \$8,374.44 Cons: \$1,836,500.00

Said Lot 2 containing 367,236 square feet of land, with 308,021 square feet being located in an industrial zone and 59,215 square feet being located in a residential zone, all according to said plan.
By acceptance and recorded of this deed, the Grantee herein, its successors, heirs and assigns, hereby agree to construct and maintain 550 feet of 6 ft. cedar stockade fencing along the boundary line between Lot 2 and Lot 1A, beginning at the intersection of said boundary line with Ayer Road - Route 2A, as shown on said plan. This covenant shall run with the land for the benefit of the owners of Lot 1A.

Being the same premises conveyed to D.E.A.K. Corporation by deed of Herbert F. Rines and Jeane E. Rines, Trustees of D.E.A.K. Realty Trust, which deed is dated March 23, 1993 and recorded with the Middlesex South District Registry of Deeds in Book 23007, Page 198.

The land in Littleton, Middlesex County, Commonwealth of Massachusetts, with the buildings and improvements thereon, located on Ayer Road - Route 2A, and being shown as Lot 2 on a plan of land entitled, "Plan of Land in Littleton, Massachusetts" for Walter Clancy, Scale 1" = 100', December 1985, Bill Boston Survey, West Groton, Massachusetts, Job. No. 85-86, Plan No. M-36, which plan is recorded with the Middlesex South District Registry of Deeds in Book 17168, Page 309, to which Plan reference is hereby made for a more particular description.
Said Lot 2 containing 367,236 square feet of land, with 308,021 square feet being located in an industrial zone and 59,215 square feet being located in a residential zone, all according to said plan.
By acceptance and recorded of this deed, the Grantee herein, its successors, heirs and assigns, hereby agree to construct and maintain 550 feet of 6 ft. cedar stockade fencing along the boundary line between Lot 2 and Lot 1A, beginning at the intersection of said boundary line with Ayer Road - Route 2A, as shown on said plan. This covenant shall run with the land for the benefit of the owners of Lot 1A.

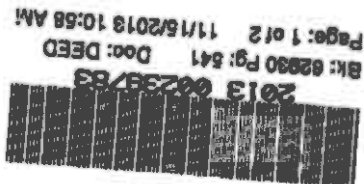
QUITCLAIM DEED

D.E.A.K. Corporation, a duly organized and existing Massachusetts Corporation with its principal place of business at 200 Littleton Road, Westford, Middlesex County, Massachusetts,

For consideration paid and in full consideration of ONE MILLION EIGHT HUNDRED THIRTY SIX THOUSAND FIVE HUNDRED AND NO/100 (\$1,836,500.00) DOLLARS

Grants to Nehemiah, LLC, a duly organized and existing Massachusetts Limited Liability Company, with a usual place of business at 5 Mt. Royal Avenue, c/o of O'Brien Commercial Properties, Marlborough, Middlesex County, Massachusetts

with QUITCLAIM COVENANTS



BK: 02930 Pg: 541

IN WITNESS WHEREOF, D.E.A.K. CORPORATION has caused these presents to be executed and its seal affixed hereto by Andrew H. Rines, its President and Richard R. Desharnais, its Treasurer this 14th day of November, 2013.

D.E.A.K. CORPORATION

By:

Andrew H. Rines President
Richard R. Desharnais Treasurer

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, SS.

On this 14th day of November, 2013, before me, the undersigned notary public, personally appeared Andrew H. Rines, and Richard R. Desharnais, proved to me through satisfactory evidence of identification, which was one of the following: ☐ a driver's license; ☐ personally known 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 as President and Treasurer of D.E. A.K. Corporation.

Notary Public
My Commission Expires: 7/24/20
SEAL

