



OFFICE OF THE
LITTLETON BOARD OF APPEALS
LITTLETON, MASSACHUSETTS 01460

received
7/18/08

Petitioner:	Henry Parlee Warren Street
Case No:	745A
Date Filed:	April 25, 2008

The Littleton Board of Appeals conducted a public hearing on May 15, 2008, and continued to June 19, 2008, at the Shattuck Street Municipal Building on an Appeal from the Building Inspector's adverse determination and a petition for a temporary variance at Assessor's Parcel U36-6, to allow storage of construction equipment on land of petitioner abutting Route 495, during construction repairs to Route 495. Notice of the hearing was given by publication in the Littleton Independent, a newspaper published in Acton and circulated in Littleton on May 1 and May 8, 2008, and by mail to all abutters and parties in interest. Present and voting: Sherrill Gould, Chairman, Julia Adam, John Cantino, Jeff Yates, Members, and Rod Stewart, Alternate. Present and not voting was Cheryl Hollinger.

The Petitioner, Henry Parlee, is an officer of Parlee Lumber and Box Company, Inc., the owner of a lot of land at the corner of Warren Street and King Street, in Littleton. The land is approximately one acre in size and is abutted by Route 495 and the on-ramp to the northbound traffic lane of the highway. It is in a residential district, although properties along King Street in this area have some elements of mixed use. The land has mostly stone and gravel base and has been used in the past as open storage for logs and trucks, frequently associated with the Parlee Lumber business on Warren Street. The Petitioner was joined in the petition by Mr. David Baker, the representative of the private contractor who has been awarded a contract by the Commonwealth of Massachusetts to perform repair work on Route 495, the interstate highway abutting the site. Mr. Baker had entered into a lease with the lot owner to store the company's construction and repair equipment on the site during the contract term. Equipment consists of large industrial lights, trucks, pavers, etc. Activities to and from the site typically commence around 10:00 P.M. and continue through the night, ending just before the commuter rush hour in the morning. Mr. Parlee had been issued a letter from the Building Inspector on April 16, 2008, to discontinue all activities on the site which were not permitted in a residential zone. The Petitioner appealed this decision and further requested a Variance to allow temporary storage activities for the duration of the construction contract. The Board, with Petitioner's agreement, elected to proceed on the matter as a Variance.

The applicant presented evidence that the site is unique in its proximity to Route 495 and its topography. It is surrounded on two sides by state highways and on the third side by a street which, although residential, leads directly to Mr. Parlee's preexisting lumber mill, where large trucks and commercial vehicles make several vehicle trips daily. The site is wide along its frontage and along Route 495 and not very deep. It has been stripped of its topsoil over the years and is mostly stone and gravel. Mr. Parlee also made the argument that it would be a hardship for him to be denied this temporary storage since the property is not well suited for development for residential housing and it has always been used as a site to store trucks and logs for delivery to Parlee Lumber. Mr. Parlee indicated that he was already committed to the lease, which he assumed was permitted based upon the historic similar uses of the property. The Highway contractor stated he has been storing construction equipment, including large and tall commercial lights, trucks, and other repair equipment on this site for months. The site is partially fenced.

One abutter, Mark Montanari, complained that the noise and disruption late at night and continuing through the night until early morning has been intolerable, especially since the crews arrive with loud chatter around 10 to 11 P.M., the lights are illuminated with no regard to whether they are directed at the residences, and the back up beepers on the trucks are annoying. Another abutter, Chief John Kelley, concurred, that the constant activity had been disturbing to the neighbors. The Applicant asserted that his site had always been used for storage of this nature, even prior to the enactment of the zoning bylaw. The highway contractor stated that there were few better practical locations for storage of the construction equipment, that the contract would be temporary, there would be no activity from December to March, that the job would be completed prior to December, 2009, and that he was willing to work

with neighbors to reduce the objections if the Board would consider a Variance with conditions. The matter was continued, during which time the contractor met with neighbors, and a letter was received into the record confirming that the temporary activity would be acceptable to at least one objecting abutter, with certain safeguards.

FINDINGS: The Board found that there was sufficient evidence that the lot was unique in soil, shape and topography, particularly due to its proximity to the highway and the fact that it is bounded on three sides by trafficked roadways. The Board also found that since the request was temporary in nature, there would be hardship to Petitioner if a Temporary Variance was denied and no substantial detriment to the neighborhood if it was granted with safeguards.

DECISION: The Board voted 4 to 1 (Stewart voting nay) to GRANT a Variance to the Applicant to allow the use of the lot designated on Assessor's Map as U36-6, for the temporary storage of construction equipment for the purpose of the repairs on Interstate Highway 495, until December 1, 2009, upon the following conditions:

1. The Contractor is to mitigate noise disruption to the residential neighborhood.
2. The Contractor is to reduce light emissions to the residential neighborhood
3. The Contractor is to erect a green glare screen fence to shield the equipment from view by the yards in the neighborhood.
4. There is to be no storage of large paving, rolling or asphalt grinding equipment.
5. This Variance is temporary and will expire on December 1, 2009.
6. This Variance is to be reviewed on March 19, 2009, to determine that there are no complaints of abutters or violations of the conditions, any of which events shall constitute cause for rescission.

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: Julia A. Adam Date: 7/17/08
Julia Adam, Clerk

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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.

True Copy Attest: _____ Date: _____
Town Clerk, Littleton, Massachusetts