



Office of the
LITTLETON BOARD OF APPEALS
Littleton, Massachusetts 01460

received
12/10/13 11AM
(27)

Petitioner: KIMLOCH FARMS, LLC

Case No: 783A

Date Filed: HEARING - Nov. 21, 2013

The Littleton Board of Appeals conducted a public hearing on November 21, 2013, at 7:45 P.M. at the Shattuck Street Municipal Building, Shattuck Street, Littleton, on a request from the Applicant to allow a change to the 40B permit granted previously. The hearing was posted but no notice was given by publication or by mail. Present and voting: Sherrill R. Gould, Chairman, John Cantino, and Jeff Yates, Members and Alan Bell, and Rod Stewart, Alternates.

The Petitioner presented a proposal to finish the interior attic space, adjacent to a bedroom, on one of the market units at 116 Goldsmith Street, citing as a reason that a proposed purchaser of the home would like to create a bedroom study combination for an adult child occupant. The Board was requested to consider this request as an insubstantial change and to act on it without a posted hearing. The 40B permit and decision for this project requires any change in bedroom count to be voted on by the Board. The creation of a finished study would effectively create an additional bedroom.

The Board heard from the petitioner, the Building Inspector and Town Counsel. The Regulations provide, among other criteria, that a "change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10%" is considered an insubstantial change. The petitioner argued that the addition of one bedroom in one unit, when compared with the total bedrooms allocated to the project was less than 10%.

The Board disagreed and determined that if all of the homes were allowed an additional bedroom, the resulting bedroom count for the project would increase by more than 10%. Town counsel advised that prior to acting on the petition, the Board first had to determine whether the change was substantial, which would require notice and public hearing. The Board further discussed the original approval process, stressing that the project was approved with a limited number of bedrooms, since it already intensified traffic and density on a small lot. The Board stated that additional bedrooms would encourage increased traffic and create significant safety issues, which the abutters should have a chance to address at a hearing.

As a result of the resistance of the Board to accept the proposed changes without a public hearing, the Petitioner then modified the request to seek permission to finish the attic space with heat and insulation, more or less as loft space, but without the addition of walls and doors which, if erected, would constitute a separate living area. The Board agreed that this modified request was insubstantial and closed the hearing.

No abutters appeared in opposition. The Board reviewed the plans as well as the Special Permit Decision and the recommendations from Town Counsel.

FINDINGS: The Board found that heating and insulating interior space within the structure without constructing walls and doors to create a separate living area was an insubstantial change.

DECISION: The Board voted to allow a modification to the Comprehensive Permit to allow the attic space to be finished with heat and insulation on the condition that any walls already constructed would be removed with the exception of 36' high half walls on either side of the stairs for safety.

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: 

Date: 12/10/2013

I hereby signify that twenty (20) 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: _____ Town Clerk, Littleton, Massachusetts

Michelle Cobleigh

From: Stephan [kingst435@comcast.net]
Sent: Thursday, November 14, 2013 1:22 PM
To: Michelle Cobleigh
Cc: jim d'agostine
Subject: Re: lot 8 Kimloch Farms / modification approval request

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Dear Members of the Board,

We do hereby respectfully request the approval of a minor modification for lot 8 Paddock Way.

The modification was made by finishing the unused floor area of the attic for bedroom four, which is located in the attic.

This is an internal minor modification, and has not increased the foot print of the subject property or increased the number of bedrooms.

The floor plan for this property is the same as designed and built, no other modifications have been made.

Thank you,
Julian J. D'Agostine
for Kimloch Farms LLC

From: "Michelle Cobleigh" <mcobleigh@littletonma.org>
To: kingst435@comcast.net
Sent: Thursday, November 14, 2013 11:35:27 AM
Subject: Kimloch Farms

Hi Steve

Can you send me a letter with the modification request for Kimloch

Meeting is November 21 @ 7:45 p.m – room 307

Shelly

*finish space = attic wall be
w/ cond that full wall be
removed w/ the exception of
36" half wall either side of
stairs.*

Minutes of the Board of Appeals Meeting of January 17, 2013- Littleton Town Offices Room 103

Members present: Sherrill Gould, Chair
William Farnsworth, Vice-Chair
Jeff Yates, Clerk
John Cantino

Alternates Present: Rod Stewart
Marc Saucier
Alan Bell

Absent: Cheryl Hollinger (family emergency)

The meeting was called to order at 7:15 p.m.

HEARING - CASE #783A – KIMLOCH FARMS, LLC.

7:15 P.M. Chair Gould opened the public hearing for a request for modification of a 40B Comprehensive Permit at Kimloch Farms. Alan Bell was appointed to be the fifth voting member for this hearing. Owners Steve Marsh and Jim D'Agostine appeared before the Board. Mr. Marsh provided a letter from Fire Prevention Officer, Keith Dunn dated December 27, 2012 stating that the fire hydrant has been relocated by the water department to a fire department approved location and regarding the building separation he recommends a flow test on the new hydrant. Mr. Marsh stated that a flow test was performed on January 16, 2013 and a provided a letter from Keith Dunn dated January 17, 2013. Mr. Marsh stated that lots 4 and 5 are the affordable units and that both with have pressure treated decks. Ms. Gould read Zoning Officer Roland Bernier's comments. No abutters were present.

IT WAS MOVED BY JOHN CANTINO AND SECONDED BY ALAN BELL TO CLOSE THE HEARING.

VOTE: AYE 5, NAY 0

IT WAS MOVED BY WILLIAM FARNSWORTH AND SECONDED BY JOHN CANTINO TO APPROVE THE MODIFICATIONS AS REQUESTED, DECKS ON LOTS 4 AND 5 THE AFFORDABLE UNITS, BUILDING SEPARATION TO BE NO LESS THAN 14'6", AND RELOCATION OF FIRE HYDRANT TO BE SHOWN ON AS-BUILT PLANS.

VOTE: AYE 5, NAY 0

The Board reviewed the minutes of October 18, 2012.

IT WAS MOVED BY WILLIAM FARNSWORTH AND SECONDED BY JOHN CANTINO TO APPROVE THE MINUTES OF OCTOBER 18, 2012 AS AMENDED.

VOTE: AYE 5, NAY 0

HEARING - CASE #818A – APPLEWOOD CONSTRUCTION

Chair Gould recused herself from this hearing, stating she represents the lot owners and has a financial interest in the outcome, and left the room.

7:30 p.m. Vice-chair William Farnsworth opened the hearing. Mr. Farnsworth appointed Rod Stewart and Marc Saucier to be the fourth and fifth voting members for the hearing. Attorney Kevin Eriksen presented the petition on behalf of Applewood Construction for a variance/special permit under section 173-31 for a proposed retaining wall at 19 Crane Road. Attorney Eriksen provided the Board with a plan highlighting the portions of the proposed retaining wall in excess of 4 feet. Mr. Farnsworth read the comments from the Zoning Officer Roland Bernier. Mr. Farnsworth noted that the Board of Assessors has assigned this property Lot 9 to have the address of 21 Crane Road and should be referred to as such. Member Jeff Yates commented that the wall is too high, too close to the road. Mr. Farnsworth questioned whether visibility would be impaired. Member John Cantino asked if a septic permit had been issued and if variances had been obtained from the Board of Health. The petitioner Walter Eriksen arrived at the meeting. Mr. Eriksen explained the construction method of the retaining wall and stated that a Board of Health permit had been issued. Member Marc Saucier expressed concern about the reduced front and side offsets, questioning how the wall could be installed or repaired.