



ZONING BOARD OF APPEALS
TOWN OF MONTAGUE
ONE AVENUE A
TURNERS FALLS, MA 01376

NOTICE OF DECISION & VOTE

Applicant Owner:

Kevin Humphrey
8 Burnett St.
Turners Falls, MA

Case No. 12-01

Date February 29, 2012

Premises Affected:

8-10 Burnett St.
Turners Falls, MA 01376
Assessors' Map 6 Lot 245
F Co. Registry of Deeds: Bk 3346 Pg 338

Special Permit (X)
Variance Application (40A) ()
Section 6 Ch. 40A - Finding ()
Site Plan Review ()

After a public hearing opened on:
And Continued to and heard on:

Wednesday, February 1, 2012
Wednesday, February 22, 2012

THE BOARD OF APPEALS FINDS:

1. The property has been used for a number of years to support an offsite landscaping business.
2. Although most of the actual work is off site employee assembly and parking, equipment storage and retrieval, and actual on site work happens with seasonal fluctuations but generally on a consistent basis.
3. The occupation has used the garage property for exterior storage, business vehicle storage and the adjacent street for business and employee vehicle parking.
4. The business has grown in size and intensity over years.
5. The Board of Health had cited the property for unnecessary clutter, debris and business activity. (4/7/2010)
6. No persuasive mitigation alternatives were offered by the applicant nor were any offered by abutters. The board was also unable to formulate or suggest mitigating measures.

The Board concludes that the occupation, as practiced, is inconsistent with, and detrimental to the residential environs and that the relief requested would only serve to continue a substantial harm to the neighborhood.

THE BOARD OF APPEALS VOTED:

- Not to grant a Home Occupation Special Permit pursuant to Section 7.3.10, and;
- That the occupation ceases activity on this premise.

The vote of the Zoning Board of Appeals was as follows:

1. Ernest L. Brown - not participating 2. John Burek, Vice-Chairman **NO**
 3. John Reynolds **NO** 4. Robert Sojka **NO**
 5. Ericka Almeida **NO**

Upon a further motion:

THE BOARD OF APPEALS VOTED A STIPULATION:

The applicant shall be granted 90 days from this hearing date to cease or move all aspects of the landscaping business. All reasonable measures shall be taken to limit neighborhood impacts.

Stipulation Vote was as follows:

1. Ernest L. Brown - not participating 2. John Burek, Vice-Chairman **YES**
 3. John Reynolds **YES** 4. Robert Sojka **YES**
 5. Ericka Almeida **YES**

The Board notes: that the home office component of this request may not violate the Montague Zoning By-laws and that this denial shall not prejudice an application that may otherwise be granted.

IMPORTANT: Any appeal from the decision of the Town of Montague Zoning Board of Appeals can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (MGL) as amended, and must be filed in the office of the Town Clerk within twenty (20) days after the date of filing of the decision with the Town Clerk.

Board of Appeals

By Ernest L. Brown, Chairman Karen Casey-Chretien,
 Clerk

Received for filing by Town Clerk: _____
 _____ Time _____ Date

I HEREBY CERTIFY THAT NO APPEAL HAS BEEN FILED WITHIN 20 DAYS FROM THE DATE THAT THIS DECISION WAS FILED WITH THE TOWN CLERK:

 Montague Town Clerk Date

Notice to be recorded by Landowner