

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

RECEIVED

2010 OCT 28 P 4: 01

CITY CLERKS OFFICE
GARDNER, MA

NAME: John L. Fletcher James L. Fletcher Trustees of the Fletcher Trust I
ADDRESS: 91 Walnut Street 225 Chapel Street
Baldwinville, MA 01436 Gardner, MA 01440

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED ON:

Off Riverside Road

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN A DEED DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS:

BOOK 17659 PAGE 45 - 51

ON APPLICATION DATED June 10, 2010 FOR AN **APPEAL**
Appeal based on the contention that the Building Commissioner erred in the interpretation of the Gardner Zoning Ordinance. Denied an Earth Removal Use off Riverside Road, Gardner, MA by the Building Commissioner because it does not comply with Section 4, #421 through #425, in Rural Residential II Area of the Gardner Zoning Ordinance.

The Gardner Zoning Board of Appeals at its October 19, 2010 meeting voted unanimously to issue a finding that the Building Commissioner erred in the interpretation of the Gardner Zoning Ordinance.

The Public Hearing was held on September 21, 2010. At the Public Hearing, the Applicant presented to the Board information regarding gravel removal activities at the property located off Riverside Road known by the Applicant as the Riverside Pit. Presented were material tracking sheets indicating the amount of gravel removed from the pit and the accompanying financial backup corresponding to the material removed. It was also noted at the Hearing that this information was not presented or made available to the Building Commissioner prior to the issuance of his decision.

A site visit by the Board was held on October 9, 2010. It was evident to the Board that no material appeared to have been removed in 2010, which was confirmed by the Applicant.

In consideration of its decision, the Board considered closely the Ordinance, and the information provided by the Applicant at the Public Hearing.

The Board voted unanimously to overturn the Building Commissioner's decision and determined from the information provided that gravel materials have been removed from the pit off Riverside Road within the statutory limitations of the Ordinance. This decision is strictly for the gravel removal operations and offers no opinion on other activities at the site.

ANY PERSON AGGRIEVED BY A DECISION OF THE BOARD OF APPEALS OR ANY SPECIAL PERMIT/VARIANCE GRANTING AUTHORITY, WHETHER OR NOT PREVIOUSLY A PARTY TO THE PROCEEDING, OR ANY MUNICIPAL OFFICER OR BOARD MAY APPEAL EITHER TO THE SUPERIOR COURT, DISTRICT COURT, OR LAND COURT DEPARTMENT OF THE TRIAL COURT FOR THE COUNTY IN WHICH THE LAND CONCERNED IS SITUATED BY BRINGING AN ACTION WITHIN TWENTY (20) DAYS AFTER THE DECISION HAS BEEN FILED IN THE OFFICE OF THE CITY OR TOWN CLERK. (M.G.L. SECTION 17, CHAPTER 40A)

A COPY OF THIS DECISION HAS THIS DAY BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK, CITY OF GARDNER:

CERTIFIED THIS 28th DAY OF October, 2010

<i>Raymond F. LaFond</i> <i>dk</i>	<i>Randall Heglin</i> <i>dk</i>	<i>Michael Gerry</i> <i>dk</i>
Raymond F. LaFond, Chairman	Randall Heglin, Clerk	Michael Gerry, Third Member

I, Alan L. Agnelli, City Clerk, City of Gardner, hereby certify the attached decision by the Zoning Board of Appeals was filed with my office on October 28, 2010 and that twenty days have elapsed since the filing of said decision with my office and that no appeal concerning said decision has been filed or that any appeal that has been filed has been dismissed or denied.

November 19, 2010
Dated

Alan L. Agnelli
Alan L. Agnelli, City Clerk

