

TOWN OF EGREMONT, MASSACHUSETTS  
MEETING OF THE ZONING BOARD OF APPEALS  
NEW GREEN LLC - SPECIAL PERMIT HEARING  
MINUTES

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Date: July 7, 2022  
Time: 5:30Pm  
Place: Via Zoom Meeting  
Egremont

Present via zoom were Zoning Board of Appeals (ZBA) members Chair Cathy Fracasse, Mark Holmes, Rolfe Tessem and alternate member Chuck Ogden.

Others participating via zoom: Christine Hargrove, Ari Zorn, Chad Robertson, Jeffrey Cohen, Chuck Ogden, Carla Turner, Susan Bachelder, Lucinda Vermeulen.

The meeting was video and audio recorded.

The hearing notice was read into the record. The applicant is seeking to amend its current special permit to change the hours of operation, remove the restriction requiring pre-order and appointments, and allow a food truck 12 times a year.

Owners Attorney Christine Hargrove and Ari Zorn are asking that hours of operation be 8am to 8pm instead of 11am to 11pm, there no longer be the restriction requiring appointments to allow for walk-ins and allow a food truck during special events no more than 12 times per year. New Green opened for business April 15, 2022. They have found the requirement for appointments to be confusing and no longer necessary as it is felt that there will no longer be the concern of long lines which were being seen in Great Barrington when the first marijuana shop was opened. There have been no parking issues. There are 4 parking slots in front of the store, and after Mom's Café open hours in front of Mom's. Employees are parking off-stie.

The current permit conditions were read into the record:

- 1: Hours and days of operation be as stated in the application - 7 days a week from 11am to 8pm.
- 2: The method of sale is to be solely by pre-order and/or appointment. A designated time of pick up to be issued to the caller, and an agreed sequence of arrival and departure times assigned. There is to be no walk in traffic.
- 3: There will be at least one traffic guard to check on assigned times, and to direct customers to assigned parking places to the westerly side of 67 Main Street and on the east side of 71 Main Street.
- 4: Per the submitted parking plan, shared parking will be accommodated in conjunction with the abutting property. A signed, legally enforceable agreement including the following provisions shall be executed between the Karner Brook LLC and EmLaw Holding Company LLC prior to opening of the retail establishment:
  - a. Applicant business will have access to 5 designated parking spaces in front of the building at 71 Main Street during operating hours and the use of additional spaces in front of 67 Main Street at the end of the business hours at the restaurant at 67 Main Street which is 3:00 pm.
  - b. Snow clearing and general parking lot maintenance shall be apportioned among the abutting properties at 67 and 71 Main Street to ensure availability of adequate parking spaces and safe conditions during business hours.
- 5: All signage and lighting will meet both Town and CCC regulations.
- 6: The Special Permit will be limited to the current applicant and shall lapse if the permit holder

ceases operations.

7: All product will be removed at the applicants' expense under the direction of the CCC or other governing bodies should closure occur.

Discussion ensued regarding the food truck issue. A food truck was used for the grand opening. Disclosure was made to the surrounding businesses. The ZBA has no understanding of their role in permitting food trucks and ultimately decided they had no jurisdiction.

Signage will remain in conformance with the Town's bylaws. All current signage is temporary but a new permanent sign, matching that of the Spirit Shoppe, should be arriving soon. Flags and sandwich board signs have been removed. It was noted that permitting of signs is the jurisdiction of the Selectboard.

Susan Bachelder spoke in support of the changes proposed in the application.

Jeff Cohen, owner of the building that house's New Green LLC, also spoke in support of the application saying that there have been no parking issues and that the proprietors have been supportive and respectful.

Carla Turner noted that food truck's had to be licensed by the Board of Health.

Oskar Hallig, neighbor and fellow businessman, spoke in support of the application stating that the applicants have been amazing and that have been no issues.

It was noted that one letter of support and one letter of opposition have been received.

The Board voted unanimously in roll call vote to issue the permit with the following findings and conditions:

Findings:

*6.2.4.1 Is in compliance with all other provisions and requirements of the Bylaw, and in harmony with its general intent and purpose.*

The amendment constitutes a minor change to the existing permit, altering only the hours of operation and nature of walk-in traffic. No other provisions within the Bylaw are impacted by this amendment, and abutters, other business owners and community members continue to be in support.

*6.2.4.2 Is essential or desirable to the public convenience or welfare at the proposed location.*

The amendment constitutes a minor change to the existing permit, altering only the hours of operation and nature of walk-in traffic. There is public interest in maintaining the successful operation of the business and improving access to the services offered will improve the opportunities for business success. Neighbors, abutters and community members are almost unanimously in support of the operation and the alterations.

*6.2.4.3 Will not be detrimental to adjacent uses or to the established or planned future character of the neighborhood.*

Abutters and neighboring businesses continue to be in support of this business, and of the changes. The operators of Devine have worked with neighbors, the property owner, and other community members to

limit any potential adverse impact and to ensure continued successful operation of neighboring businesses.

*6.2.4.4 Will not create undue traffic congestion, or unduly impair pedestrian safety.*

The operation of the business thus far has alleviated any concerns with parking and/or traffic issues. The operators continue to work with neighboring businesses to ensure sufficient parking, and have provided a 'parking attendant' to supervise the parking area to positive effect.

*6.2.4.5 Will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the Town will be unduly subjected to the hazards affecting public health, safety or general welfare.*

This change has no impact on this section.

#### Conditions

Hours of Operation: Change hours of operation from 11AM – 8PM 7 days/week, **to** 8AM – 8PM 7 days/week.

Appointments/Pre-Orders: **Eliminate** the requirement for both/either; walk-ins will now be permitted.

The ZBA **makes no finding** relative to the request for a food truck because the Board does not believe that it has jurisdiction.

The process for filing and appeal were announced.

Hearing closed at 6:30pm.

Mary Brazie,  
Office Administrator

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*The recording of the minutes is on record at the Town Hall for 90 days. Anyone who wishes to may obtain a copy or listen to the recording at Town Hall. Attachments are on file at Town Hall.*