



TOWN OF EGREMONT
Board of Appeals
171 Egremont Plain Road

P.O. Box 368
Egremont, MA 01258-0368
Phone 413-528-0182 ext 10 fax 413-528-5465
email: tegremont@egremont-ma.gov

NOTICE OF DECISION - VARIANCE AND SPECIAL PERMIT
Amended

Date: July 5, 2022

Issued to: Lannon Killea and Jon Herman, 264 Hillsdale Road

A request was made to amend the application filed to allow Lannon Killea and Jon Herman, 264 Hillsdale Road, for the proposed restaurant and bar with venue for live music.

The Board of Appeals, at a zoom meeting held on Thursday, June 30, 2022, made a decision with reference to the above request by voting as follows:

To approve the application for a special permit, for the proposed restaurant and bar with venue for live music, under the Zoning Bylaw section 4.3.1.5, 4.3.1.3 and 6.3.2.2, for a restaurant as per the application with the following conditions:

- a. Hours of operation: closing at 11:00pm
- b. Indoor music only
- c. Lighting in the parking area in support of safety with downlighting to the greatest extent possible to control light pollution.

Signed: _____

Chairman, Board of Appeals

The decision of the Board, together with detailed record of its proceedings stating the reasons for the decision, shall be filed in the office of the Town Clerk within 14 days after said decision.

An appeal of the decision may be made by any person aggrieved pursuant to MGL Chapter 40A, Section 17 as amended, within twenty (20) days after the date of filing in the office of the Town Clerk.

This notice shall be mailed forthwith to the petitioner, abutters, and owners of the land within 300 feet of the property line of the said property, the Board of Selectmen, the Building Inspector, the Planning Board, the Planning Boards of any abutting municipalities, and to person present the public hearing who requested such notice and stated the address to which such notice was to be sent, as provided in Section 15, Chapter 40A, as amended.

RE: Special Permit. The Board of Appeals may, after giving the holder of this permit ten (10) days written notice, sent by certified mail, return receipt requested, to the said holder's last known address, after a public hearing called to modify or revoke said permit, modify or revoke the same. Modification or revocation of this special permit shall require a vote of a least two (2) members of the three-member board.

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Date: July 5, 2022

As chair of the Board of Appeals, I hereby certify that the following is a detailed record of all its proceedings relative to this application of Lannon Killea and Jon Herman.

The applicant sought to have a restaurant with music as allowed by Zoning Bylaw section 4.3.1.5, 4.3.1.3 and 6.3.2.2.

The premises affected are located at 264 Hillsdale Road, Egremont MA.

1. On December 2, 2021, an application, of which a true copy marked "A" was made a part of the record, was presented to the Board of Appeals. On May 17, 2022 a request for an amendment to the Special Permit was received after a remand order was made by the Land Court on May 10, 2022 that the issue be returned to the Zoning Board of Appeals for consideration to amend, such documents marked as "A1" are made a part of this record.
2. Thereupon, an advertisement, a true copy of which marked "B" is made a part of this record, was published in the Berkshire Eagle, a newspaper published in Great Barrington Mass, on 6/16/2021 and 6/23/2022.
3. Notices of the hearing, a copy of which marked "C" is made a part of this record, were mailed postpaid to the petitioner and parties in interested as specified in Section 11, Chapter 40A, as amended, on 06/06/2022.
4. On, Thursday, June 30, 2022, a hearing was held with the members of the Zoning Board of Appeals present via zoom, and the applicant and interested parties present via Zoom (as allowed under the COVID19 Pandemic guidelines) at which hearing opportunity was given to all those interested to be heard in favor or opposition to said application.

Members present: Voting Cathy Fracasse, Rolfe Tessem, Mark Holmes.

5. Following the hearing, the Board made the following specific findings regarding the land in question and the proposed use (note: Restatement of mandatory provisions and requirements are not to be taken as findings.)

The Board finds that the parking areas as depicted in parking plan B filed with the application may be located within fifty feet of the East and West sides of the property, as strict compliance with the prohibition on locating a parking area or driveway within fifty feet of the side/rear property lines may cause unnecessary hardship. The parking is so located because of limitations due to lot configuration and topography, likely location of the septic system, and significant cost to the applicant for creating new parking. The proposed parking plan (per the Parking with Variance map

show in the ZBA Continuance document) addresses concerns of safety and providing sufficient parking for a viable business. Section 4.1.2.3(b)(ii).

The Board further finds that the project:

A. The proposed amendment is in compliance with all other provisions and requirements of the Bylaw, and in harmony with its general intent and purpose.

The proposed restaurant is in harmony with the general intent and purposes of the Bylaw in that it adds a new social and recreational service to the Town without impairing any of the protected interests under the Bylaw as set forth specifically in Section 1.3.1, while bringing business to the Town which contributes to the general welfare of the Town. The project will support other businesses in the area, such as Catamount Ski Area, to which it is in close proximity. The project will also revive and restore a historic building that has long been in a state of disrepair and restoring a restaurant use that had operated since 1946.

B. The proposed amendment is essential or desirable to the public convenience or welfare at the proposed location.

The project will re-imagine a previous restaurant, creating a new venue for casual dining and socializing in Egremont. The location is the same site used for the previous restaurant, and the existing building will be restored. The restaurant will provide local employment. For the reasons set forth in (a), above, the proposed restaurant and bar with venue for live music is desirable both for public convenience and welfare.

C. The proposed amendment is not detrimental to adjacent uses or to the established or planned future character of the neighborhood.

The addition of the restaurant will have no detrimental effect at all on the neighborhood. The restaurant will be operated in the existing building. The restaurant will not have obtrusive outdoor lighting; the only lighting will be downward lighting in the parking lot for safety. There will be no amplified, outdoor music; the only music will be indoors. There will be no significant change in traffic patterns or parking. The hours are limited. The traffic on Hillsdale Road already generates noise, and the restaurant will not create additional noise. There will be no change to the character of the neighborhood.

D. The proposed amendment will not create undue traffic congestion, or unduly impair pedestrian safety.

The restaurant will not create any undue traffic congestion or impair pedestrian safety, as pedestrian traffic is not expected and the site was operated as a restaurant for decades.

E. The proposed amendment 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.

The proposed restaurant will have no impact on any municipal services as it is serviced by private water and sewer. See also findings (a) – (d) above.

Per the above findings, the Board finds that the application and proposed project are not substantially more detrimental to the adjacent uses. The amendment to the Special Permit is allowed.

6. The Board voted at its meeting on Thursday, June 30, 2022 as detailed below, to

GRANT the amendment to the application

To approve the amendment to the application for a special permit, under the Zoning Bylaw section 4.3.1.5, 4.3.1.3 and 6.3.2.2, for a restaurant as per the application with the following conditions:


- a. Hours of operation: closing at 11:00pm
- b. Indoor music only
- c. Lighting in the parking area in support of safety with down lighting to the greatest degree possible to control light pollution.

Members:

Cathy Fracasse - yes: Rolfe Tessem - yes: Mark Holmes- yes

(NOTE: Show the vote of each member upon each question, or, if absent or failing to vote, indicate such fact and set forth clearly the reason or reasons for the Board's decision and for its other official actions.)

Signed:



Chair, Board of Appeals

mab



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**NOTICE FOR RECORDING IN THE REGISTRY
 OF A DECISION TO GRANT AN AMENDMENT TO THE SPECIAL PERMIT OR
 ANY EXTENSION,
 MODIFICATION OR RENEWAL OF A SPECIAL PERMIT, OR VARIANCE**

TO: Lannon Killea and Jon Herman, 264 Hillsdale Road

By the Zoning Board of Appeals affecting the rights of the owner with respect to the use of the premises at:
 264 Hillsdale Road, Egremont MA _____
 The record title standing in the name of: Molasses Hill Holdings, LLC

By deed duly recorded in the Southern Berkshire District, Berkshire County Registry of Deeds in Book
2611 Page 112 and in Registry District of Land Court, Certificate Number Book Page
 The full decision of said Board is on file with the papers and plans in the office of the Town Clerk. Said
 Board approved application and grants permit for an
 addition of a second floor to part of the pre-existing, non-conforming structure. The addition will remain
 with the existing footprint of the house and will not increase its non-conformity. The increase of the height
 will remain less than the maximum height allowed.

Signed and certified this 7th day of July, 2022

The Egremont Zoning Board of Appeals:  Chair



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Lannon Killea, Jon Herman, 264 Hillsdale Road, Amended Special

Permit

**CERTIFICATE BY THE TOWN CLERK FOR FILING OF THE DECISION IN THE
REGISTRY**

This is to certify that twenty (20) days have elapsed since filing of the above decision with this office and no appeal has been filed, or appeal has been filed and denied in this case.

Signature and Seal of the Town Clerk

Date: _____