



## 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](mailto:tegremont@egremont-ma.gov)

### NOTICE OF DECISION - SPECIAL PERMIT

Date: ~~June 30, 2022~~ July 11, 2022

Issued to: Kenver Real Estate, LLC, 39 Main Street

An application was made to allow Kenver Real Estate, 39 Main Street, for the addition of a seasonal outdoor skating rink.

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

To approve the application for a special permit, under the Zoning Bylaw section 4.3.1.5, 4.1.2.3(b)(ii), for a seasonal outdoor skating rink per the application with the following conditions:

1. Rink shall be constructed in respect of the 50 foot sideline setback set forth in section 4.1.2.3(b)(ii)
2. The Rink shall be open only during operating hours of Kenver, and no later than 5PM on weekdays and 7PM on Saturdays and Sundays
3. No artificial refrigeration shall be used to freeze the rink water; only natural freezing will be used
4. Only string lights will be used to light the rink, and lighting will only be used during the above hours of operation
5. No outdoor music will be presented as part of the operation of the rink
6. Number of skaters on the ice will be limited to twenty (20) at any given time
7. The applicant will comply with all other applicable bylaws, laws and regulations
8. All other conditions referenced in the application will also apply

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 Kenver Real Estate LLC.

The applicant sought to have an outdoor skating rink as allowed by Zoning Bylaw section 4.3.1.5, 4.1.2.3(b)(ii).

The premises affected are located at 39 Main Street, Egremont MA.

1. On May 17, 2022, an application, of which a true copy marked "A" is made a part of this record, was presented to the Board of Appeals.
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 06/16/2022 and 06/23/2022.
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.)

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.

6.2.4.1 The use is in line with the existing use of the property as a purveyor of outdoor equipment. The proposed new use is in harmony with the bylaw as it affords an additional recreational opportunity within the town. The conditions are defined such that impact to neighbors and abutters is limited in scope and time.

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

6.2.4.2 The seasonal rink will afford town residents and visitors with a recreational opportunity that does not currently exist in town and is beneficial to both residents and the Kenver's business.

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

6.2.4.3 Care has been taken to limit the light, traffic and noise concerns of neighbors. The low impact and seasonal nature of the use further limits its impact. The number of skaters at any given time is limited, as are the hours of operation of the rink. The use is further constrained by the weather.

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

6.2.4.4 The existing driveway and parking at the location are of sufficient size to handle any additional traffic. Further, the limitation of the number of skaters on the ice will control traffic impact. Kenver staff will be present at all hours of operation to ensure safe use of the parking areas.

**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.

6.2.4.5 There will be no such impact as the water will be contained within the rink, with no chemical additives that could be discharged into the ground.

6. The Board voted at its meeting on Tuesday, January 25, 2022 as detailed below, to **GRANT** the application

To approve the application for a special permit, under the Zoning Bylaw section 4.3.1.5, 4.1.2.3(b)(ii), for a seasonal outdoor skating rink per the application with the following conditions:

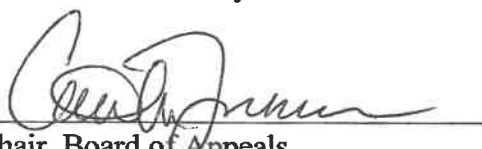
1. Rink shall be constructed in respect of the 50 foot sideline setback set forth in section 4.1.2.3(b)(ii)
2. The Rink shall be open only during operating hours of Kenver, and no later than 5PM on weekdays and 7PM on Saturdays and Sundays
3. No artificial refrigeration shall be used to freeze the rink water; only natural freezing will be used
4. Only string lights will be used to light the rink, and lighting will only be used during the above hours of operation
5. No outdoor music will be presented as part of the operation of the rink
6. Number of skaters on the ice will be limited to twenty (20) at any given time
7. The applicant will comply with all other applicable bylaws, laws and regulations
8. All other conditions referenced in the application will also apply
- 9.

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



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

TO: Kenver Real Estate LLC

By the Zoning Board of Appeals affecting the rights of the owner with respect to the use of the premises at:  
39 Main Street, Egremont MA \_\_\_\_\_


The record title standing in the name of: Kenver Real Estate, LLC

By deed duly recorded in the Southern Berkshire District, Berkshire County Registry of Deeds in Book  
2713 Page 123 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 a special permit, under the Zoning Bylaw section 4.3.1.5, 4.1.2.3(b)(ii), for a seasonal outdoor skating rink per the application with the following conditions:

1. Rink shall be constructed in respect of the 50 foot sideline setback set forth in section 4.1.2.3(b)(ii)
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6. Number of skaters on the ice will be limited to twenty (20) at any given time
7. The applicant will comply with all other applicable bylaws, laws and regulations
8. All other conditions referenced in the application will also apply

Signed and certified this July 14, 2022

The Egremont Zoning Board of Appeals:  Chair

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**Kenver Real Estate, LLC, 39 Main Street, 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: \_\_\_\_\_