

TOWN OF HOLLISTON
ZONING BOARD OF APPEALS

TOWN HALL

HOLLISTON, MASSACHUSETTS 01746

APPLICATION FOR GRANT OF A SPECIAL PERMIT

Date Filed: APR. 1 28 2020

Applicant's Name: RHS + more, LLC

Applicant's Address: 71 PENNOCK ROAD ASHLAND MA

Applicant's Phone Number: 508-561-2582

Owner's Name: Rugny Properties, LLC

Owner's Address: 71 PENNOCK ROAD ASHLAND MA

The Owner hereby appoints Peter Barbieri to act as his/her/its agent for the purposes of submitting and processing this application for a special permit.

The Owner's title to the land that is the subject matter of this application is derived

under deed from 750 CONCORD ST LLC, dated MAY 28, 2014

And recorded in Registry of Deeds, Book 63686, Page 430

Or Land Court Certificate of Title No. _____, registered in

District Book _____, Page _____

The land is shown in the Assessor's records as Lot 232 on Map 14, Block 3

And has an address of or is located at 750 CONCORD ST

in the Commercial zoning district.

Under the provisions of Section VI-D (2) to vary the terms of Section I-B and the following, the Applicant hereby petitions the Board of Appeals:

Nature and subject matter of Special Permit:

ADDITION OF SPLASH PAD TO
EXISTING APPROVED RECREATIONAL
USE OF THE PROPERTY. SPECIAL PERMIT
4-16-2014 ATTACHED

Section of Zoning Bylaw that permits this use by grant of Special Permit:

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Previous Zoning Information (To be completed by Inspector of Buildings):

EXISTING OUTDOOR RECREATION OPERATES UNDER A 1991 SPECIAL PERMIT FOR MINIATURE GOLF WHICH WAS MODIFIED IN 2014 TO ALLOW ADDITIONAL OUTDOOR ACTIVITIES. THE PROPOSED SPLASH PAD REQUIRES A FURTHER MODIFICATION OF THE EXISTING SPECIAL PERMIT. CC 4/27/20

The Applicant presents the following evidence that supports the grant of the special Permit:

a. The use is in harmony with the general purpose and intent of the bylaw because:

PROPERTY IS CURRENTLY APPROVED FOR OUTDOOR RECREATIONAL USE. ADDITION OF SPLASH PAD AMENITY WILL ENHANCE RECREATIONAL USE FOR RESIDENTS OF THE TOWN.

b. The general or specific provisions of a grant of a special permit, as set forth in the zoning bylaw are satisfied because:

THE CONSTRUCTION AND USE OF THE SPLASH PAD AMENITY ARE IN COMPLIANCE WITH THE REQUIREMENTS OF THE BY-LAW.

Will the proposed use include the storage or process of any hazardous substances?

Yes _____ (Please attach additional information.) No X

Applicant's Signature:

James G. Scannamanni

Owner's Signature:

James G. Scannamanni

PROJECT STATEMENT

The Property, 750 Concord Street, which is the subject matter of this Application, is shown as Holliston Assessors Lot 232 in Block 3 on Map 14 and consists of 4.01 Acres (Holliston Land). The Premises also contains .25 acres in Ashland which is used for parking and access to Meeting House Path (Ashland Land). The Lot has approximately 117 feet of frontage on Concord Street and over 250 feet of frontage on Meeting House Path. The Holliston Land is located within a Commercial Zoning District.

In 1991, a Special Permit for outdoor recreational use of the Premises was issued for a miniature golf facility with a snack shop. In 2014 an application was filed for changes to the approved recreational use of the Property. In April of 2014 Special Permit was granted for changes to the use of the Property. A copy of the 2014 Special Permit is attached.

The Premises abuts residentially zoned land which is not developed in Holliston. In Ashland, the Premises abuts Converse Way (formerly Meeting House Path). The property across Converse Way is Zoned Highway Commercial and not developed. The Property in Ashland west of Converse Way is Zoned Residential Multi-Family. The closest Condominium to the Premises is over 100 feet from the Premises.

The Applicant seeks to add to the use of the Property approved in 2014, a Splash Pad as an additional amenity to customers. As depicted on the submitted plans the Splash Pad would be located at the end of the parking lot. The installation of the Splash Pad will result in the loss of two (2) parking spaces and the reconfiguration of the two (2) existing handicapped spaces. No other change to the site are proposed.

Pursuant to the Zoning Bylaw, outdoor recreational activities require the issuance of a Special Permit (Use Codes 17). The Zoning Board has the authority to allow the proposed use of the Property provided the use is harmony with the general purpose and intent of the Zoning Bylaw. As there will be no significant changes to the operations on the site from the Splash Pads which will simply add an additional amenity the recreational use customers, the continued use of the site for a mini-golf facility with extended outdoor recreational activities will not create any impact to abutters or the Town in general. The proposed Splash Pad use of the site is in harmony with the general purpose and intent of the Bylaw, which is to promote the health, safety, convenience, morals and welfare of the inhabitants of the Town of Holliston, to lessen the danger from fire and congestion and to encourage the most appropriate use of the land.

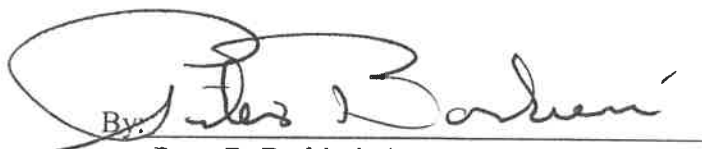
The septic system on the property was designed to handle the flow from 262 occupants per day. In connection with the sale of the Premises a septic system inspection is being completed. The Board of Health files have been reviewed and there has been no reporting of any problem with the septic system. It is not anticipated that the proposed addition of the Splash Pad would result in the use of the Premises by over 262 people per day.

Thirty-Five parking spaces were provided on the site for the current operations which under the By-Law allows for 70 people on the site at one time (1 space per 2 people). Operations of the site by the current owner which will continue to operate the site has shown that nor more than 65 use the site at

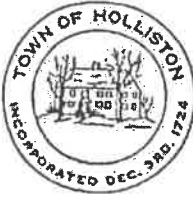
any given time and no parking problems have been reported for the use of the property. Although there will be a loss of two (2) spaces the thirty-three (33) remaining spaces will more than adequately serve the use of the Premises.

The Applicant therefore requests that the Zoning Board of Appeals amend the Special Permit allowing the Applicant to continue the approved recreational use of the site by the 2014 Special Permit and allow for the installation of the Splash Pad.

APPLICANT
PUTTS and MORE, LLC

By: 

Peter R. Barbieri, Attorney
Fletcher Tilton PC
161 Worcester Road, Suite 501
Framingham, MA 01701
Phone: (508) 532-3517
Fax: (508) 532-3117



**TOWN OF HOLLISTON
ZONING BOARD OF APPEALS**

Town Hall – 703 Washington Street
Holliston, MA 01746
(508) 429-0635



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**CERTIFICATE OF ACTION
SPECIAL PERMITS, 750 CONCORD STREET HOLLISTON, MA**

Date of Decision: April 16, 2014
Applicant: Putts and More, LLC
Applicant's Address: 71 Pennock Road, Ashland, MA 01721
Owner: 750 Concord Street, LLC
Subject Property: 750 Concord Street, Holliston, MA 01746
Assessor's Identification: Map 14, Block 3, Lot 232
Zoning District: Commercial

Administrative Record:

Hearing notice under the requirements of MGL, c. 40A and the Holliston Zoning By-Laws included the following:

1. Publication of the hearing notice in the Metrowest Daily News on April 1, 2014, and April 4, 2014;
2. Posting of the hearing notice in the Town Clerk's Office on March 28, 2014; and
3. Notification to parties in interest (including the Applicant) by mail on March 28, 2014.

The Applicant filed an application with the Town Clerk on March 27, 2014. The public hearing was opened on April 16, 2014, at which time, the hearing was closed. The Board deliberated on the matter on April 16, 2014.

Project Description:

The Applicant's Representative Peter Barbieri, Attorney Fletcher Tilton P.C. and the Applicant James Giammarinaro, explained that the Applicant is under agreement to acquire the Premises and proposes to operate the mini golf facility with changes to the Holliston Property. Attorney Barbieri explained the history of the site including the prior Special Permits issued by the Board in 1991.

The Premises abuts residentially zoned land, which is not developed, in Holliston. In Ashland the Premises abuts Converse Way (formerly Meeting House Path). The property across Converse Way is Zoned Highway Commercial and not developed. The Property in Ashland west of

63686/430

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HOLLISTON, MASS.
Drew Peto

Converse Way is Zoned Residential Multi-Family. The closet Condominium to the Premises is over 100 feet from the Premises.

The Applicant seeks to continue the mini-golf and snack shop use with additional picnic table and to add batting cages and a workout area. In addition to the outdoor recreational activities, the Applicant seeks to operate within the existing building novelty sales (tee shirts etc) and to construct a small open stand for a farmers market. The location of the new activities are shown on the "Zoning Usage Plan of Land in Holliston and Ashland" submitted by the Applicant. The Applicant also submitted an Aerial Photo of the mini golf operation which is to be continued and the parking area which is not to be altered.

There are no proposed changes to the site except for the additional picnic tables and the installation of the batting cages, workout area, and farm stand. All the changes occur on the Holliston land. The changes will not result in any significant impact as to traffic or drainage.

Pursuant to the Zoning Bylaw, outdoor recreational activities and the outdoor sales (farmer's market sales) require the issuance of a Special Permit (Use Codes 38 and 27C). The Applicant stated that as there will be no significant changes to the operation on the site, the continued use of the site for a mini-golf facility with extended outdoor recreational activities and a farmers market will not create any impact to abutters or the Town in general. The Applicant stated that the proposed uses which include indoor retail sales (allowed as of right) are in harmony with the general purpose and intent of the Bylaw, which is to promote the health, safety, convenience, morals and welfare of the inhabitants of the Town of Holliston, to lessen the danger from fire and congestion and to encourage the most appropriate use of the land.

The septic system on the property was designed to handle the flow from 262 occupants per day. The Applicant stated that he did not anticipate that the proposed use of the site would result in the use of the Premises by over 262 people per day.

The Applicant requested hours of operation from 6:30 am to 10:00 midnight Monday through Sunday for the golf operations, although starting out the hours would be less than that.

Thirty-Five parking spaces are provided on the site which under the By-Law allows for 70 people on the site at one time (1 space per 2 people). Past operations did not experience 70 people on the site at one time and no parking problems were reported for the use of the property. The Applicant stated that 35 spaces will more than adequately serve the use of the Premises.

Findings of Fact:

The Board reviewed the Application, and the Plan and Aerial Photo submitted by the Applicant as well as the comments received from the Police and Fire Chief.

The Board finds that the proposed outdoor recreation use including the miniature golf facility, snack shop, batting cages and workout area and the farmers market sales are in harmony with the general purpose and intent of the Zoning By-Law. In particular the Board notes that Town previously rezoned the parcel for Business use, specifically to accommodate the mini golf use. In addition, the Board notes that the following aspects of the development will serve to benefit the neighborhood:

1. The Applicant has agreed to allow access to an abutting residential parcel to the west as set forth in the Board's prior ZBA Decision.
2. Access to the site from Rout 126 is by way of an approved street on the Ashland side of the Town line; thus, no additional curb cut will be created on Concord Street.
3. The outdoor recreational activities will help to provide a separation between the residential uses to the south of the site and the existing and proposed commercial uses to the north in Ashland. Further, the small farm stand will have minimal impact.

Based on these considerations, the Board finds that the requested Special Permits can be granted without detriment to the established or future character of the neighborhood or the Town.

Zoning Board Vote:

The Board's vote to approve the Applicant's Special Permit Applications to operate an outdoor recreational facility and farm stand under the provisions of Section III.-A.- Number 38 and 27C for the property known as 750 Concord Street is as follows on motion by John Love, seconded by Brian Liberis.

Chairman Dellicker	Aye
Brian Liberis	Aye
John Love	Aye

Conditions of Approval:

Accordingly it was unanimously voted by those members sitting on these Applications, to grant the Special Permits subject to the following conditions:

1. The Applicant upon taking ownership shall grant to the Town of Holliston, either by right-of-way or in fee, an area up to fifty feet in width from Converse Way and Meeting House Path to the residential parcel located to the west of the subject property. The precise location and width of this access will be mutually determined between the Applicant and the Holliston Board of Selectmen, and shall provide a feasible means of access between said parcel and Meeting House Path and Converse Way.
2. A landscaped buffer strip shall be maintained along the northerly and westerly sides of the property 100 feet from all residential zoning districts shown on the Aerial Photo. This buffer area shall not be used in connection with the proposed outdoor recreational use except for the golf operations that exist and are shown on the Aerial Photo. The area shall be maintained as landscaped open space designed to separate the subject abutting residentially-zoned areas from light, noise and other impacts of the proposed use. A fifty foot buffer area on the northerly side of the site west of Meeting House Path may contain the workout area and picnic tables as depicted for the Plan of the subject property. In the event that access to the residential land to the west is actually constructed, the path shall be relocated so as not to obstruct the actual access.
3. Hours of operation are to be within the period from 9:00 A.M. to 12:00 P.M. for golf uses, and snack shop uses, 6:30 A.M. to 12:00 P.M. for farmers market, and 9:00 A.M. to 9:00 P.M. for batting cages and fitness workout.


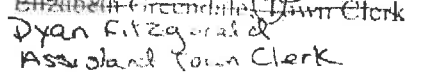
4. Any food service provided on the site shall be as an accessory use to the permitted facilities and shall not be designed to attract other patrons. No indoor seating shall be provided, nor shall food be prepared or packaged for off-site consumption. The use of the picnic area for eight picnic tables is allowed.
5. Sufficient parking spaces as depicted in the Plans shall be provided for employees and visitors.
6. All lighting shall be directed into the site and designed to avoid direct eye contact with passing traffic and abutting properties. Light spillover on residential properties shall be minimized to the extent possible.
7. Any loud speakers, for messages and/or background music shall be directed into the site and maximum sound levels at the lot line of all adjacent nearby residences shall not exceed 50dBA.
8. The Premises shall be maintained so as to be visually unobtrusive and neat at all times.
9. The Special Permit is issued solely to the Applicant and is not transferable or assignable.
10. This Decision is not valid until it is recorded in the Middlesex Registry of Deeds and proof thereof is provided to the Board.

HOLLISTON ZONING BOARD OF APPEALS

By: 
Henry A. Dellicker, Jr., Chairman

TOWN CLERK'S CERTIFICATION OF NO APPEAL

I hereby certify that 20 days has passed since this decision has been rendered and no appeals have been taken in accordance with MGL, c. 40A.


Elizabeth Greenbille, Town Clerk

Dyan Fitzgerald
Assistant Town Clerk

 30, 2014
Date

SMOKE/CO DEFERRAL AGREEMENT

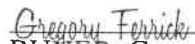
Due to the state of emergency declared on March 10, 2020 ("State of Emergency") related to the outbreak of the 2019 novel Coronavirus ("COVID-19"), the Governor of Massachusetts issued an order permitting the temporary conditional deferral of certain inspections of residential real estate, including those inspections required by Sections 26F and 26F1/2 of Chapter 148 of the General Law.

Buyer, Gregory Ferrick and Caitlin Ferrick, and Seller, Karen S. Heller, hereby agree to temporarily defer said inspections in order to effectuate the transfer of property located at 77 Barber Road, Framingham, MA 01702 and hereby agree as follows:

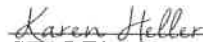
1. Buyer, not Seller, shall be responsible for equipping the dwelling, building, or structure with approved smoke detectors and carbon monoxide alarms;
2. Buyer agrees as a condition of taking title to equip the dwelling, building, or structure with approved smoke detectors and carbon monoxide alarms immediately upon taking title according to the provisions of 527 CMR 1.00, Chapter 13; and
3. Any inspection that would otherwise be required by Sections 26F and 26 F1/2 of Chapter 148 of the General Laws shall be conducted no more than 90 days after the State of Emergency is terminated.

Seller agrees to place the sum of \$300 ("Escrow Funds") in escrow at Closing with Buyer's attorney ("Escrow Agent") to cover the costs associated with Buyer's compliance with the terms herein contained. The Buyer shall act diligently to arrange for the timely performance of the obligations set forth herein within Buyer's reasonable control and shall promptly provide all notices required herein within 24 hours of any inspection(s). Upon receipt of written notice from Buyer that the obligations set forth herein have been performed, the Escrow Agent shall disburse the Escrow Funds within 1 business day as follows: to Buyer to reimburse Buyer for any properly documented (ie: itemized invoice showing breakdown of parts and labor) costs associated with Buyer's compliance with the terms herein contained, with any remaining funds, if any, to be disbursed to the Seller. Buyer shall not be reimbursed for costs that are not properly documented. In any event, if the Escrow Agent is not notified by Buyer that the Buyer has complied with all of Buyer's obligations set forth herein within ninety (90) calendar days after the state of emergency is terminated, all of the Escrow Funds shall be disbursed to Seller on or before the next business day. Buyer shall hold harmless and indemnify the Seller for any loss, cause or damage, including reasonable attorney fees, resulting from or related to the Buyer's failure to comply with this Agreement. This provision shall survive closing and delivery of the deed.

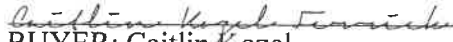
The rescission or termination of the State of Emergency shall not invalidate any inspection deferral agreed upon herein.



BUYER: Gregory Ferrick



SELLER: Karen S. Heller



BUYER: Caitlin Kozel

SELLER: