Pursuant to notice duly filed with the Town Clerk, a public meeting of the Board of Appeals was held on Thursday, April 18, 2019 at 7:15 p.m. in the First Floor Hearing Room, 141 Keyes Road, Concord, Massachusetts.

PRESENT:
Members:
James Smith, Chair
John Brady
Stuart Freeland
Theo Kindermans

Elizabeth Hughes, Town Planner
Ray Matte, Building Commissioner

Chair Smith called the meeting to order at 7:20 p.m.

Voting Members: James Smith, John Brady, Stuart Freeland

New Public Hearings:

Bonnie Albright for the renewal of a Special Permit under Sections 5.3.15 and 11.6 of the Zoning Bylaw to operate a bed and breakfast at 307 Main Street (Parcel #0732).

Chair Smith opened the public hearing and reviewed the application. Bonnie Albright appeared before the Board to request the renewal of the Special Permit. She noted that she has not had any issues or complaints and asked if the permit could be granted for longer than a year. The Building Commissioner Ray Matte confirmed there have been no issues or complaints.

The Chair opened the hearing up for public comment and there was none.

The Chair closed the public hearing. Mr. Brady agreed with the request to issue the Special Permit for more than one year and suggested that five years was reasonable. The Board agreed.

Mr. Brady moved to approve the application of Bonnie Albright for the renewal of a Special Permit under Sections 5.3.15 and 11.6 of the Zoning Bylaw to operate a bed and breakfast at 307 Main Street (Parcel #0732) for a period of five years and subject to the existing Special Permit conditions. Mr. Freeland seconded the motion and all VOTED in favor.

Milltarry Market, LLC to amend a Special Permit under Section 11.6 of the Zoning Bylaw to delete Condition #43 “No public use of the second floor shall be permitted” at 77 Lowell Road (Parcels #1683-CD, 1685-cd, 1682-2).
Chair Smith opened the public hearing and reviewed the application. Chair Smith noted the receipt of an email from an abutter raising questions about the lighting and the parking. He also noted receipt of the Town Planner’s report outlining information requested by Town Staff and the recommendation that the application be continued to allow the Applicant time to provide the information.

The Applicant James White appeared before the Board. Mr. White opined that he believes he had provided the requested information yesterday afternoon and after the Board hears his presentation, he did not think a continuance will be needed. Mr. White proceeded to present the existing floor plans and the intention of holding events and classes. He commented that he was only requesting a deletion of condition #43 and not a change in use. Mr. White opined that there have been no parking issues at the site, even in the winter when some spaces were full of snow. He thanked the Town Planner for her assistance over the past few years.

Mr. White provided clarification on the discrepancies in the permitted square footage, the construction affidavit and the as-built plans. The Chair clarified that the square footage being utilized for this project is 13,664. Mr. White stated yes.

Mr. White commented on the requirement from the Building Commissioner for an updated code analysis and stated that he did not believe it was within the jurisdiction of the Board and was premature anyway. He also noted that a code analysis was done last year and his code consultant said that there are no significant changes from the 8th and 9th edition.

Mr. White informed the Board that he has provided information to the Fire Department regarding the need for additional smoke and CO detectors. He recommended that should the Board grant the request, they include a condition that only requires additional smoke and CO detectors if found necessary.

Mr. White discussed the request for additional information regarding the proposed events and classes and stated he was not able to provide that information because he did not know how many people would want to attend an event. He believes it is a beautiful building and people have expressed how appropriate the second floor space would be for events and the use has been approved as a market, and these are the types of uses that happen in markets.

Mr. Brady questioned the Town Planner regarding whether she believes all of the information has been addressed by the Applicant. The Town Planner stated that Town Staff has not yet assessed the parking and use requirements because the information requested has not yet been provided by the applicant. She explained how the parking was calculated for the original use of the building and that change of use and square footage has not yet been calculated. She explained that the types of events are needed in order to determine changes to the parking requirements.

Mr. Freeland stated that he has not witnessed any issues with available parking at the site but stated that the Board needs to address more than just removing the condition from the Special Permit.

Mr. Kindermans stated that he believed that the code analysis is necessary because the approved plans showed more of a catwalk second floor storage and the space has obviously been designed for something else other than storage. He believes that while
there may not be a parking issue now, a large cooking class on a Saturday afternoon may cause a parking issue and the requested information should be provided.

Mr. White stated again he is not requesting a change of use since the whole building was approved as a market and with the reduction in the square footage of the building, it meets parking and zoning requirements.

The Chair opened the hearing for public comment.

Trish Ng, 12 Dalton Rd. spoke in support of the requested amendment.

Leann Griesinger, 1266 Lowell Rd., noted that she has never had an issue parking and spoke in support of the requested amendment.

Jennifer Schunemann, 63 Cedar Way also has not had any issues with parking and spoke in support of the requested amendment.

Nancy Traversy, 8 Barretts Mill Rd., agreed with the previous speakers and spoke in support of the requested amendment.

With no further public comment, the Chair determined it would be best to leave the public comment period open. He added that he believes the space would be useful and there were no questions that this area would be a good community space. However, even though he has not experienced a parking issue with the current use, they need to explore whether there could be parking issue in the future. The question in his mind is not that it should be open for events, but under what conditions and that to be able to answer those questions, he would need to know the information being requested.

Mr. Smith believed the request is a change of use and questioned how they could make a decision without knowing more details on potential events. He stated that the regulations provide the Board the option of imposing conditions on a Special Permit that go beyond the Zoning Bylaw to protect community.

Mr. White agreed and would work on putting together some proposed restrictions that effectively allows use of the space including approval for one year to allow them to gather real time parking analysis.

Mr. Freeland asked if it was clear that the proposed use falls within the permitted use of the building. The Town Planner confirmed that under Section 5.3.11 of the Zoning Bylaw that workshops and classes are permitted under Commercial and Industrial Districts.

Jennifer Schunemann, 63 Cedar Way, questioned whether the capacity of the building effectively limited the number of people so didn’t see this being an issue. The Building Commissioner stated that the building can handle the additional occupant load but that the parking could change based on the changed of use. He commented that a proper parking analysis has not yet been done and that he is required to follow the parking requirements set forth in the Zoning Bylaw.

The Chair asked the Applicant if he would provide the requested information and to continue the public hearing so he could work with the Building Commissioner and Town Planner on coming up with some parameters on the maximum number of people, time of day, etc. and develop condition conditions that would allow the use. Mr. Smith noted he was in favor of allowing the use for a year to see if it makes sense and the parking works because he could not find a reason to simply remove the condition while still protecting the community. Mr. Freeland agreed. Mr. Brady agreed that is it a great space that
should be used and would like to see it approved but could not move forward with the information that has been provided so far. Mr. Kindermans concurred with the other Board members comments.

Mr. Freeland moved to continue the public hearing of Milltarry Market, LLC to amend a Special Permit under Section 11.6 of the Zoning Bylaw to delete Condition #43 “No public use of the second floor shall be permitted” at 77 Lowell Road (Parcels #1683-CD, 1685-cd, 1682-2) to the May 9, 2019 meeting at 7:15 p.m. Mr. Brady seconded the motion and all VOTED in favor.

Other Business:

Approval of Minutes for March 14, 2019

Mr. Brady moved to accept the minutes for the March 14, 2019 meeting as submitted. Mr. Freeland seconded the motion and all VOTED in favor.

Black Horse PRD - Release of covenant: Commerford Road

The Town Planner explained that the developer is requesting the release of the covenant so that they could gift the common open space land to the Town.

Mr. Freeland moved to grant the release of the Common Open Space Parcel identified on a Plan of Land for Concord Pastures, LLC dated May 26, 2016 and recorded with the South Middlesex Registry of Deeds as Plan 521 of 2016 from the Restrictive Covenant dated June 15, 2016 and recorded with the South Middlesex Registry of Deeds, Book 67429, Page 162. Mr. Brady seconded the motion and all VOTED in favor.

Public Comment

Linda Escobedo, Member of the Select Board questioned whether a business such as the Market would also be required to get an event license from the Select Board if they were serving alcohol. The Town Planner did not know what the limitations are on the Market’s current beer and wine license, but would investigate.

There being no further business, the Chair adjourned the meeting at 8:25 p.m.

Respectfully submitted,

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Elizabeth Akehurst-Moore, Clerk