



Town of Stow
PLANNING BOARD

380 Great Road
Stow, Massachusetts 01775-1122
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SPECIAL PERMIT AND SITE PLAN APPROVAL

Modification #3

Historic and/or Culturally Significant BUILDINGS and STRUCTURES

271 Great Road

July 13, 2021

1. Petition

This document is the DECISION of the Planning Board (hereinafter, the Board) on the Petition of 29 Culinary, LLC (hereinafter, the Applicant) for a Special Permit and Site Plan Approval Modification under sections 3.3.2.4, 3.2.3.5, 9.2 and 9.3 of the Town of Stow Zoning Bylaw (hereinafter the Bylaw).

This Decision is in response to a Request for Modification of the Special Permit and Site Plan Approval to permit renovation of historic buildings and the site, and to change the use from the existing 6-bedroom Bed and Breakfast Establishment, formerly known as the Stowaway Inn, to a mixed use facility comprising of a café, retail gift shop, residential dwelling and associated infrastructure.

2. Owner

Phillips Heritage, LLC
200 Barton Road
Stow, MA 01775

Applicant

Jordan Mackey
29 Culinary, LLC
271 Great Road
Stow, MA 01775

3. Location

Said property is located at 271 Great Road, Stow Massachusetts. The land is further identified and shown as Parcel 19 on Assessor's Map Sheet U-11 (hereinafter, the site).

4. Board Action

After due consideration of the Petition, the record of proceedings, and based upon the findings set forth below, the Board, on July 13, 2021, by a vote of four (3) members and one (1) Voting Associate Member present at the public hearing, voted to **GRANT** a Special Permit and Site

Plan Approval under Sections 3.2.3.5, 3.3.2.4, 9.2 and 9.3 of the Bylaw, subject to and with benefit of the following findings, waivers and conditions.

5. Proceedings

The Petitioner presented the Petition and Site Plan to the Board at a duly noticed public hearing held on March 23, 2021. The Public Hearing was continued to March 30, 2021 and April 20, 2021, and closed at the conclusion of the April 20, 2021 session.

The following Board members were present throughout the proceedings: Lori Clark, Karen Kelleher, Margaret Costello, John Colonna-Romano and Voting Associate Member Mark Jones. The record of proceeding and submission upon which this decision is based may be referred to in the Office of the Town Clerk or the Office of the Planning Board.

6. Exhibits

Submitted for the Board's deliberation were the following exhibits:

EXHIBIT 1 Modified Site Plan: Untitled. Received February 5, 2021

Sheet 1

EXHIBIT 2 Supplementary documents required by the Rules consisting of the following:

1. Petition for Special Permit
2. Project narrative
3. Development Impact Statement
4. Certified Abutters List
5. Locus Map

EXHIBIT 3 Additional Correspondence

1. Letter, dated March 29, 2021 from Todd Estabrook and Tami Alyn Magnuson
2. Letter, dated April 1, 2021 from Todd Estabrook and Tami Alyn Magnuson
3. Letter, dated April 4, 2021 from Weston Fisher and Shirley Burchfield
4. Letter, dated April 12, 2021 from Todd Estabrook and Tami Alyn Magnuson
5. Letter, dated April 12, 2021 from Kathleen Fisher
6. Email, dated April 18, 2021 from Sarah Cleary and Dave Batsford
7. Email, dated April 20, 2021 from Allison McCarthy
8. Email, dated April 20, 2021 from Karen Martinsen Fleming

7. Findings, Waivers and Conditions

Based upon its review of the exhibits and the record of proceedings, the Board finds and concludes that:

7.1 Finding: The approval hereby granted is based on and specifically applies to a parcel of land located at 271 Great Road, shown on the Stow Property Map Sheet U-11 as Parcel 19.

7.2 Finding: The 2.65 acre site is located in the Residential District.

- 7.3 Finding:** This Special Permit modification is in response to the Applicant's request for upgrades to the site for Nan's Market and Rustic Kitchen, which offers take-out food service in a market setting. The request for Modification includes the addition of wooden planter boxes and picnic tables, together with low wattage lighting. The Applicant proposes to relocate all forty-two (42) Title-V approved restaurant seats outdoors. The proposed outdoor dining was described as taking place through normal business hours 8:00 am to 8:00 pm.

Incidental to the outdoor seating are the following proposed site upgrades:

- Directional signage for customers;
- Additional landscaping;
- Slate pedestrian path across lawn area;
- Waste baskets.

Additionally, the Application states the intention to hold small, public and private gatherings on the property such as yoga and garden classes, wine dinners, and child friendly events, such as petting zoos, with an occasional small tent and casual outdoor buffet service. During the Applicant's Public Hearing presentation to the Planning Board, they indicated the intention to utilize a small camper trailer, retrofitted as food and drink cart.

- 7.4** This Special Permit Modification also constitutes review for compliance with the original Special Permit dated July 1, 2015.

Historic and Culturally Significant Building Special Permit

- 7.5 Finding:** On July 1, 2015, the Board granted a Special Permit for 271 Great Road under Section 3.2.3.5 of the Zoning Bylaw which provides

"for uses not otherwise permitted in the Residential District, if such uses preserve historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such uses, with any necessary mitigation measures, are in harmony with the character and uses permitted in the Residential District."

- 7.6 Finding:** No changes to the exterior architectural components of the building are proposed.

Condition: The exterior of the historic structures shall be maintained in such a manner that will retain the historic character in keeping with the existing historic façade using like materials.

Accessory Outdoor Seating Applicability

- 7.7 Finding:** The primary use of *Nan's Rustic Kitchen and Market*, the current tenant of 271 Great Road, and the subject of this Special Permit Modification Application, is the offering of take-out food service and small-scale retail in a market setting.

- 7.8 Finding:** Section 3.2.3.4 of the Zoning Bylaw states that "accessory outdoor service at a patio or seating area" is an allowed use by Special Permit for restaurants in the

Business District. The Board further finds that although the proposed use is in the Residential District, the approved Special Permit included outdoor dining on the patio and allows the Planning Board to consider additional outdoor seating opportunities as well.

Number of Outdoor Dining Seats

- 7.9 Finding:** The Application proposes relocating all indoor, as well as currently permitted patio seating outdoors, adjacent to the privacy fence along the northeast property line, for a total of forty-two (42) seats to be located outdoors.

Finding: The Original Decision stated that the total number of Title V permitted seats was forty-one (41). However, the Nashoba Board of Health Certificate of Compliance states that the total number of seats permitted for the restaurant use is forty-two (42).

Finding: The Board of Health submitted a Certificate of Compliance for a forty-two (42) restaurant seat capacity per the approved Title V Permit. The Board of Health noted that if the Planning Board were to assume each table seats six (6), people, the eight (8) tables proposed would exceed capacity.

Finding: The Planning Board finds that without a detail on the picnic table type to be used, it is not possible to determine whether the proposal will conform to the seating schedule outlined in Section 7.12 of this Decision.

Condition: Accessory outdoor seating shall occur only on the proposed picnic tables or on temporary tables set up for any Special Outdoor Event as described in Sections 7.30-7.39 of this Decision.

Condition: Accessory outdoor seating shall occur only in accordance with the schedule in Section 7.12 of this Decision. Under no circumstance shall the total number of outdoor seats provided exceed (35) seats. The Applicant shall have sole responsibility for limiting the capacity of outdoor seating in accordance with this Decision.

Plan Modification: Prior to endorsement, a detail for the picnic tables, such as a photograph or other rendering, shall be submitted to the Planning Board for review and approval to ensure that the seating capacity offered does not exceed forty-two (42) on-site seats.

Proposed Location of Outdoor Dining Seats

- 7.10 Finding:** The proposed Plan shows the addition of eight (8) picnic tables along the northeast portion of the property boundary, although the application states the proposed addition of ten (10) tables. The detail of the tables, including the number of seats at each table has not been provided.

The Original Decision permitted fourteen (14) of the forty-one (41) total seats permitted to be located on a now existing patio at the northwest corner of the existing building. The current Application indicates that the existing patio is now proposed for use as a space for retail displays and that the fourteen (14) seats permitted for the location will be moved to the proposed outdoor seating area as shown on the Plan.

Finding: The Applicant indicated that the proposed location for outdoor seating provides the safest and most logical place for guests to eat outdoors, given its proximity to the parking area and the lack of improved access to the rear of the building.

Finding: During the Public Hearing, abutters noted concern regarding the placement of the proposed tables along the property line, and the potential for light and noise impacts.

Finding: The Planning Board finds that if this business use was located in the Business District, the proposed location of the outdoor seating along the property line would not meet the setback requirements for business uses abutting residential properties in accordance with Section 4.4(1) of the Zoning Bylaw. Therefore, the Board finds that limiting the location of the outdoor seating in a manner that otherwise would meet the criteria utilized for the Business District is warranted.

7.11 Finding: The Planning Board further finds that the primarily indoor seating arrangement originally approved in the 2015 Special Permit has less of an impact on the neighboring residences than the transferal of all forty-two (42) seats to the proposed outdoor location, regardless of mitigating conditions. The Board finds that splitting the restaurant seats across multiple indoor/outdoor locations would reduce the impact to abutting residences.

7.12 Finding: The Board finds that together with other mitigating measures, limiting the number and location of outdoor dining seats will have the most positive affect on abutting properties. Therefore, the Board finds three potential locations that are appropriate for restaurant seating on the site:

1. The originally approved 700 square foot patio to the northwest of the existing building;
2. Lawn seating set back from the northeast fence line and eastern property line;
3. Indoor seating within the café and market space.

Condition: The forty-two (42) permitted restaurant seats shall be limited to three (3) locations on the site in accordance with the following schedule:

1. Fourteen (14) seats shall be permitted on the existing patio space, obstructed from view by the lattice screen and landscaping required in Section 7.9 of the Original Decision;
2. Twenty-one (21) seats on the lawn area. Tables and chairs or picnic tables shall be arranged on the lawn (leaching field), set back a distance of thirty (30') feet from all privacy fences and or lot lines.
3. A total of forty-two (42) seats may be provided indoors at any time, provided that the outdoor seating in the lawn area and/or patio is reduced to conform to the overall Title V allowance for forty-two (42) total restaurant seats allowed on site. As an example, if the two outdoor locations utilized the maximum number of seats allowed per this Section, then the total number of seats allowed indoors would equal seven (7).

Condition: Accessory outdoor seating shall occur only in accordance with the above schedule. Under no circumstance shall the total number of outdoor seats provided exceed thirty-five (35) seats.

Condition and Plan Modification: Prior to installation of approved outdoor seating, the Applicant shall submit a management plan for the Board's review and approval to ensure compliance with the outdoor seating capacity limits of this Decision.

Fencing at 259 Great Road

- 7.13 Finding:** The Original Decision included a condition requiring a six (6) foot tall privacy fence extending along the eastern and northeastern property bounds.

Finding: During the Public Hearing, an abutter at 259 Great Road indicated that their late father had asked that the required fence not be installed in 2015, at the time of Approval of the Special Permit. The former property owner has since passed, and the surviving children of the deceased owner of 259 Great Road have submitted a letter during the Public Hearing, requesting that a fence taller than six (6) feet be installed to block views of the Nan's parking area and to ensure children and patrons do not wander off the property, and onto the property at 259 Great Road.

The Planning Board finds that the property owner of 271 Great Road and the surviving children of the deceased owner of 259 Great Road came to an agreement that an eight (8) feet, rather than the previously required six (6) foot height would provide an additional screen from the parking area.

Condition: The previously permitted, but unconstructed fence along the eastern property bound with 259 Great Road shall be installed at a modified height of (8) feet above grade and extend south from the northeast corner of the property, along the 259 Great Road boundary to a point just north of Route 117, in the location as shown on the proposed plan.

Plan Modification: Prior to commencement of work, the Plan shall be modified for review and approval by the Board to include a detail on the eastern privacy fence indicating the eight foot (8) fence.

Fencing Along Proposed Outdoor Dining Area

- 7.14 Finding:** During the Public Hearing, abutters along Crescent Street and Great Road indicated that the proximity of the outdoor dining tables and associated lighting would concentrate noise and activity along the property line, increase their view of the new use and create an environment of activity that is not in keeping with the Residential District.

- 7.15 Finding:** The Planning Board finds that the Original Special Permit for 271 Great Road approved a market and retail shop, together with a fourteen (14) seat outdoor dining patio at the rear of the building. During the 2015 Public Hearing, the abutting 151 Crescent Street Property owner raised concern about loss of privacy and noise due to the proposed patio at the rear of the property. The Petitioner revised the original plan submission by reducing the size of the patio from 1,100 sq. ft. to 700 sq. ft. to accommodate 14 outdoor seats, screened by an eight (8') foot high latticed trellis, along with a six (6') foot high fence along the northern and eastern border of the property, as well as additional landscaping to block view of the patio and address privacy concerns raised by the abutter.

The Planning Board finds that accessory outdoor dining is a common accessory use in the restaurant industry, and that the capacity restrictions and property line setbacks on outdoor seating required in this Decision can adequately mitigate abutter concerns.

Finding: The eight (8') foot high latticed trellis for screening of the proposed patio was never constructed.

Condition: All seating provided in the lawn area shall be set back thirty (30') feet from the privacy fences, or property bounds where no such fence is required. Where Special Outdoor Events are taking place in accordance with Sections 7.30-7.39 of this Decision, no tables, tents, canopies or other installations that concentrate or encourage activity of patrons shall be placed within thirty (30') feet of the fence.

Condition: All patio seating shall be screened with a latticed trellis in accordance with the Original Decision.

Plan Modification: Prior to commencement of outdoor dining, the Plan shall be modified to show a thirty (30') foot setback from all privacy fences, with a note on the Plan indicating that no tables, tents, canopies or other installations that concentrate or encourage activity of patrons shall be allowed within the setback area.

Lighting

Existing

7.16 Finding: The existing Special Permit Plan included three types of approved lighting, including:

1. Two (2) Wall Pack Fixtures to be installed on the barn
2. Four (4) LED Bollard Fixtures in the parking area
3. Three existing Light Poles to remain.

7.17 Finding: Abutters to the proposed use noted ongoing concerns about spotlights and other existing building lighting at the site staying lit beyond normal operation hours. The Zoning Enforcement Officer was notified and is currently working with the Applicant to convert four (4) globular post lights to full cutoff, as well as redirect the sign lighting to the downward position. The Building lights and bollard lights were to remain as is.

7.18 Finding: The proposed Plan shows low wattage string lighting extending from the fence diagonally over the proposed tables. The Applicant has indicated that any proposed patio lighting will be hung from the fence instead of along a string line out over the tables.

The Planning Board finds that patio lighting along the fence will not provide a direct benefit to patrons given the setback requirements of Section 7.12 of this Decision. The Board may approve proposed lighting which conforms to Section 3.8.1.5 and which is placed either on the permitted tables on the lawn area or under table umbrellas.

Condition: No string lighting shall be installed on or along the privacy fence.

Plan Modification: Prior to commencement of outdoor dining, the Plan shall be modified for review and approval by the Board to include a detail on any proposed lighting, including table lighting.

7.19 Condition: In accordance with Zoning Bylaw Section 3.8.1.5, no exterior lighting shall shine on adjacent properties or towards any street in such a manner as to create a nuisance or hazard.

7.20 Condition: All exterior lighting shall comply with Section 3.8.1.5 of the Bylaw.

- 7.21 Condition:** All table lighting shall be turned off at the close of outdoor dining. All other operational lighting for staff and maintenance shall be turned off no later than 30 minutes after the close of business.

Condition: All table lighting shall be downlit, either using the proposed umbrellas or through an additional fixture to provide the proper effect.

Plan Modification: Prior to commencement of outdoor dining, the Plan shall be modified for review and approval by the Board to include a detail on the proposed table lighting.

- 7.22 Finding:** Bollard lighting at 271 Great Road has a history of being damaged by plow equipment and/or vehicles, causing the attached lights to shine in different directions.

Condition: All bollard lighting shall be maintained year-round in the proper upright position.

Landscape Plan

- 7.23 Finding:** No landscape plan was submitted for the proposed Special Permit Modification.

- 7.24 Finding:** The Plan corresponding to the Original Decision, dated February 13, 2015 and last revised June 10, 2015, includes a "Lighting and Landscape Plan."

- 7.25 Finding:** Section 4.4(1) of the Zoning Bylaw states:

"if the LOT abuts a residential or recreation-conservation district, whether directly or separated by a public or railroad right-of-way, the side and rear YARDS abutting the residential or recreation-conservation district shall be increased as follows and shall include a 50' landscaped buffer that consists of an opaque screen as defined in Section 7.7.4.1 of the Zoning Bylaw.

- 7.26 Finding:** The Planning Board finds that although the use is not subject to the 50' foot setback required under Section 4.4(1) of the Zoning Bylaw, the proposed use is a business use and therefore the Board finds that additional landscaping, together with the setbacks conditioned in Section 7.12 of this Decision are warranted to mitigate the impact of the use on abutting residential properties.

- 7.27 Finding:** Based upon the photos provided in the Application, some of the abutting homes on Crescent Street have less natural vegetation and screening during certain months than others along the existing rear fence and property lines. The Planning Board finds that additional evergreen landscaping in targeted areas along the fence line would provide noise attenuation, as well as evergreen screening that can block views of the proposed use.

Condition: Additional evergreen trees, including but not limited to, eastern hemlock, white cedar, white pine or balsam fir shall be added to the landscape plan in clustered intervals along the existing and proposed fence line, specifically positioned to reduce views of the proposed use from abutting property's along Crescent Street.

Plan Modification: The Plan shall be modified for review and approval by the Board to show additional evergreen trees in clustered intervals along the existing fence line, specifically positioned to reduce views of the proposed use from abutting property's along Crescent Street.

- 7.28 Finding:** The *Lighting and Landscaping Plan* of February 13, 2015, appears to show proposed landscaping along the southern half of the fence line with 259 Great Road that has not been entirely installed.

Condition: All landscaping shown on the February 13, 2015 *Lighting and Landscaping Plan* shall be installed in accordance with the Plan.

Planter Boxes at Detention Basin

- 7.29 Finding:** During the Public Hearing, concern was raised regarding children playing in and around the stormwater detention basin immediately east of the existing parking area. The Applicant indicated the intention of adding planter boxes around the perimeter of the steep portions of the detention basins to keep children and other patrons from slipping and falling in and around the basin.

Condition: Planter boxes shall be provided along the rim of the detention basin in a manner that creates a barrier between the basin and the lawn area.

Plan Modification: Prior to commencement of outdoor dining, the Plan shall be modified for review and approval by the Board to show the location of planters to be installed along the rim of the detention basin in a manner that creates a barrier between the basin and lawn area.

Special Outdoor Events

- 7.30 Finding:** The Application states the intention to hold small, public and private gatherings on the property such as yoga and garden classes, wine dinners, and child friendly events, such as petting zoos, with an occasional small tent and casual outdoor buffet service. During the Applicant's Public Hearing presentation to the Planning Board, they indicated the intention to utilize a small camper trailer, retrofitted as a food and drink cart.

- 7.31 Finding:** The existing Special Permit Plan, dated February 13, 2015 includes a note that the lawn area is to be used for "outdoor seasonal sales."

- 7.32 Finding:** During the Public Hearing, the Planning Board heard testimony from abutting property owners regarding the potential impacts of events at the property, including traffic congestion, noise that would impede upon the quiet enjoyment of neighboring residents' properties, trespassing patrons of the restaurant, and visual impacts from excess vehicles and tents.

- 7.33 Finding:** During the Public Hearing the Applicant indicated that they have worked out arrangements with the Highrock Church to allow for staff to park in the church parking lot for the purpose of easing congestion.

Condition: Parking for patrons of 271 Great Road shall only be provided in designated parking spaces. No off-pavement parking shall be provided or allowed.

- 7.34 Finding:** The Planning Board finds that Accessory Uses related to businesses are common in Stow's Business District, as they provide for a variety of uses that are typically associated with certain business types. "Accessory Uses" are defined in Stow's Zoning Bylaw as:

“any USE which is incidental and subordinate to a PRINCIPAL USE.”

The Planning Board further finds that although the uses described in the Nan's Rustic Kitchen and Market Application could be classified as subordinate, incidental and otherwise accessory to the principal market and takeout food service use, the use is located in the Residential District in accordance with Section 3.2.3.5 of the Zoning Bylaw regarding preservation of historic structures. Therefore, the Planning Board finds that conditions limiting event frequency, hours of operation and number of attendees is appropriate for the purpose of protecting abutting property owners from noise and disturbance.

7.35 The Planning Board finds that there are three primary concerns with events at the site:

- The allowable number of restaurant seats permitted under Title V;
- Noise and disturbance impacts to abutting residences;
- Parking and circulation limitations of the site.

7.36 Finding: During the Public Hearing the Applicant inquired into off-site parking to enable larger events. The Planning Board finds that while parking is a limiting factor at the site, the primary limitation on event size is the restaurant seating capacity dictated by Title V and the MA Department of Environmental Protection.

7.37 Finding: The Planning Board further finds that the primary use of the site is take-out food service and the primary purpose of the Special Permit Modification request is the creation of an outdoor dining area to allow outdoor consumption of take-out food. Therefore, it is reasonable to assume that those attending an event at the site will partake in some food consumption.

Given the logistical difficulty in reliably enforcing the distinction between those consuming food and those partaking in non-food related activity, the Planning Board finds that a maximum occupancy for the lawn area, which fluctuates in relation to the restaurant seating offered at other portions of the site (as conditioned in Section 7.12) is warranted. Such limitations will ensure Title V compliance, protection of abutting residents from negative impacts and better management of the previously approved parking and circulation system.

7.38 Condition: When a Special Outdoor Event is taking place, the number of patrons either consuming food on-site, or partaking in the event, may not exceed thirty-five (35). During a Special Outdoor Event on the lawn area, indoor seating and/or patio seating shall be reduced as applicable.

Condition: Prior to commencement of any further Special Events for the 2021 season and prior to April 1st of each successive year, the Applicant shall provide the Board with an operational plan for managing patron numbers and controlling traffic, such as limiting indoor/patio seating during the advertised hours of morning or evening events, working with public safety departments to prohibit illegal parking or install signage, or by other methods.

Specific Event Limitations

7.39 Condition: Daytime Special outdoor events, including but not limited to fitness sessions, gardening classes or children's programming, shall be limited by the condition of Section 7.38 and otherwise may take place between the hours of 8am – 4pm, subject to the following:

- a) There is no amplified sound or generator use, including amplified microphones or speakers;
- b) Tables, serving stations or other areas that concentrate or encourage activity are not set up within thirty feet of the privacy fence;
- c) Consumption of alcohol shall adhere to all licensing and regulation of the MA Alcohol and Beverage Control Commission and the Stow SelectBoard;

Plan Modification: Prior to commencement of outdoor dining, the Plan shall be modified to specifically delineate the area of proposed seating, showing all relevant setbacks as described in Section 7.12.

Condition: Evening Special Outdoor Events and programming, such as wine and/or farm-to-table dinners that include the serving of food or drink between the hours of 4pm – 8pm shall adhere to the following:

- a) There is no amplified sound or generator use, including amplified microphones or speakers;
- b) Tables, serving stations or other areas that concentrate or encourage activity are not set up within thirty feet of the privacy fence;
- c) Consumption of alcohol shall adhere to all licensing and regulation of the MA Alcohol and Beverage Control Commission the Stow SelectBoard;
- d) No more than two Special Outdoor Events between the hours of 4pm and 8pm shall take place each month.

Plan Modification: Prior to commencement of outdoor dining, the Plan shall be modified to specifically delineate the area of proposed seating, showing all relevant setbacks as described in Section 7.12.

Liquor Licensing

7.40 Finding: During the Public Hearing, abutters noted concern about alcohol being served on the property due to the stated likelihood that such consumption would lead to heightened impacts and disturbance, particularly in the evening. The Applicant indicated that they are not seeking a license to serve alcohol at this time. The Board indicated that if the Applicant seeks a license to serve alcohol at a future date, such license would be from the Select Board at which time a separate public hearing would be held by the Select Board.

7.41 Finding: The Board finds that issuance of a liquor license is under the jurisdiction of the Select Board and the Alcoholic Beverages Control Commission and subject to the requirements of M. G. L. c. 138, §15A and 16B.

Condition: This approval shall not be deemed approval to serve alcohol. In the event the Petitioner proposes to serve alcohol, a separate application for license shall be filed with the Stow Selectboard.

Food and Drink Cart

7.42 Finding: During the Public Hearing the Applicant indicated their intention to utilize a small camper trailer, retrofitted as a mobile food cart, to serve food and drink outdoors.

- 7.43 Finding:** The Planning Board finds that the relatively small site, in close proximity to abutting residential properties, limits the type of activities that can take place at the site. Therefore the Board finds the placement and use of an outdoor food and drink cart on the property would have a negative impact on abutting property owners.

Condition: No food and/or drink carts shall be used to serve patrons outdoors.

Waste Management

- 7.44 Finding:** The Plan does not show the location of trash receptacles.

Finding: The Planning Board finds that given the primarily take-out food service that will be occurring, the Applicant shall include adequate trash cans or receptacles in the lawn/parking area. The Board further encourages the Applicant to utilize compostable utensils and dinnerware to increase the sustainability of the use.

Condition and Plan Modification: Prior to commencement of outdoor dining, trash receptacle locations, as well as a waste management monitoring and maintenance plan, shall be provided for review and Approval by the Board.

Hours of Operation

- 7.45 Finding:** The Original Decision included hours of operation from 7:00 am to 9:00 pm.

Finding: During the Public Hearing the Applicant indicated proposed hours for outdoor dining to be from 8am – 8pm.

Condition: Hours of typical patron service for Nan's Rustic Kitchen and Market shall be limited to 7:00 am to 8:00 pm. Any proposed expansion of typical hours shall require a modification to this Decision.

Condition: Hours of outdoor dining shall be from 8am – 8pm. Hours for Special Outdoor Events shall be governed under Section 7.35 of this Decision.

Condition and Plan Modification: Prior to installation of approved outdoor seating, the Applicant shall submit a management plan for the Board's review and approval to ensure compliance with the outdoor seating hours of operation in Section 7.41 of this Decision.

Deliveries

- 7.46 Finding:** During the Public Hearing, abutters and Board members noted the traffic congestion taking place when deliveries of food or other supplies are made by trucks unloading along the shoulder of Route 117.

Finding: The Planning Board finds that the site is located among the most heavily trafficked corridors in Town, averaging over 15,000 vehicles per day.

Condition: Trucks and other delivery vehicles shall not park or stand along the shoulder of Route 117.

Applicability / Compliance / Recordation

- 7.47 Finding:** The Board finds the proposed use, as conditioned herein, complies with Sections 3.2.3.5 (Uses permitted in the Residential District by special permit, granted by the Planning Board); 9.2 (Special Permit) and 9.3 (Site Plan Approval) of the Bylaw.
- 7.48 Condition:** No later than December 31, 2021, the Applicant shall submit an operations report for the Board's review, detailing reflections on the efficacy of the Special Permit conditions, any issues encountered with the operation of the use, as well as any lessons learned. The purpose of the review will be to acknowledge areas for operational improvement and establish a baseline for future consideration of modification applications.
- 7.49 Condition:** In the event the owner proposes to demolish any of the historic structures on the site, the owner shall give 180 days' advance notice, in writing, to the Town of Stow Planning Board, Building Commissioner, Historical Commission, Community Preservation Committee and Board of Selectmen. This condition shall be specifically referenced in the property deed.
- 7.45 Condition:** This approval shall not be deemed approval by any other authority having its separate jurisdiction and inspection requirements.
- 7.46 Finding:** The foregoing required modifications and conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw, Rules, or other applicable laws and regulations. At the time of endorsement, the Plan must be in compliance with the Rules, except for the waivers granted herein.
- Condition:** This Special Permit Modification No. 3 shall be considered a condition of, and modification to the Original Special Permit and all prior modifications. Except as expressly modified by this Decision Modification No. 3, all terms and conditions of the Original Special permit Decision shall remain in full force and effect.
- Condition:** The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this Decision, with or without a public hearing, upon the request of the Applicant or upon its own motion.
- 7.47 Finding:** The Board reserves the right to enter the property to review ongoing compliance with the conditions imposed within the Special Permits approved herein.
- Condition:** The Petitioner shall grant permission to agents of the Town of Stow, as said agency is determined by the Stow Planning Board, to enter, inspect and take whatever related actions are necessary to ensure completion of the ways and related infrastructure within the subject property.
- 7.48 Condition:** This Special Permit/Site Plan Approval Modification #3 shall lapse in two (2) years from the date of this Decision, unless substantial use or construction has commenced.
- 7.49 Condition:** The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Petitioner, its successors in interest and assigns, and shall be enforceable by the Town of Stow.

- 7.50 Condition:** The Special Permit Modification granted by this decision shall not take effect until a copy of the decision has been recorded, at the owner's expense, in the Registry of Deeds and duly indexed or noted on the owner's certificate of title. A copy of the recorded decision, certified by the Registry, or notification by the owner of the recording, including recording information, shall be furnished to the Town Clerk and the Planning Board.

8. APPEALS

Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within twenty (20) days after the date of filing this decision with the Town Clerk.

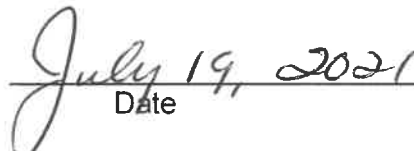
Witness our hands this 13th day of July, 2021


Lori Clark

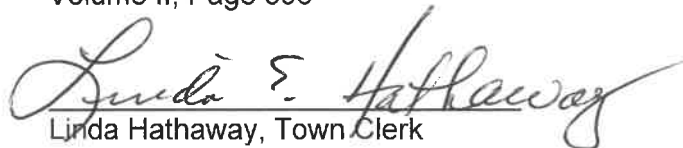

Karen Kelleher


John Colonna-Romano

Mark Jones, Voting Associate Member


Date

Received and Filed
Volume II, Page 596


Linda Hathaway, Town Clerk