

TOWN OF HARVARD ZONING BOARD OF APPEALS

APPLICATION FOR A HEARING

Please review the Board of Appeals' Regulations, Chapter 135, The Code of the Town of Harvard, prior to filling out this Application for Hearing. This application, along with the appropriate documents and filing fee, must be filed in the office of the Town Clerk.

Name of Applicant: William Ference

Mailing Address: 40 Mass Ave, Harvard, MA 01451

Telephone Number: 267-566-2637 Email Address: bill.ference@gmail.com

Applicant is (check one): ☒ Owner ☐ Tenant ☐ Licensee ☐ Prospective Buyer

Location of Property: 247 Littleton County Rd Assessors Map 14 Parcel: 53.1

Registry of Deeds: Book Number 67898 Page Number 271 Certificate Number _____

Owner's Name: 247 Littleton County Road LLC Tel. No.: _____
(If different than Applicant)

Owner's Address: 1 Bolton Road, Harvard, MA 01451

Representative: Goldsmith, Prest & Ringwall, Inc. Tel. No.: 978-772-1590

Application (which includes required plans and abutters list) is for:

- | | |
|---|---------------------------------|
| <input type="checkbox"/> Variance (16 copies) | Fee: \$150.00 + \$6.00/ abutter |
| <input type="checkbox"/> Special Permit (16 copies) | Fee: \$200.00 + \$6.00/abutter |
| <input checked="" type="checkbox"/> Modification/Extension (16 copies) | Fee: \$100.00 + \$6.00/abutter |
| <input type="checkbox"/> Failure to Enforce Administrative Appeal (16 copies) | Fee: \$130.00 |
| <input type="checkbox"/> Other Administrative Appeals (16 copies) | Fee: \$175.00 |
| <input type="checkbox"/> Comprehensive Permit (20 copies) | Fee: 500.00/unit |


Specific Bylaw section (s) being applied for: 125-3 C Non-conforming structures other than one- and two-family dwellings and 125-3 D Non-conforming uses.

Nature of Application and Justification of Request: See attached.

The undersigned certifies that he/she has read and examined this application and the Harvard Zoning Board of Appeals Rules and Regulations, Chapter 135 of the Code of the Town of Harvard, and that the proposed project is accurately represented in the statements made in the application.

The applicant will be required to pay a local newspaper of general circulation for the current cost of advertising the hearing. The applicant will be billed directly from the newspaper for the cost of the advertised hearing or all advertising must be paid for in full prior to submittal to the newspaper.

I hereby request a hearing before the Board of Appeals with reference to the above application.

 3/16/2023
Property Owner's Signature (REQUIRED) Date

Property Owner's Signature (REQUIRED) Date

Applicant's Signature (if different from owner) Date

Harvard Zoning Board of Appeals
Special Permit Modification
Nature and Justification
Bill Ference
247 Littleton County Road

The property at 247 Littleton County Road (“the property”), also known as Friendly Crossways, was issued a Special Permit by the ZBA on April 22, 2022, recorded at the WSRD in book 68247 page 319, allowing the continued non-conforming use as an events venue and allowing the construction of a commercial kitchen and tent platform.

The construction of the kitchen is critical to the property’s operation and is required by the Board of Health in order to prepare food onsite. Whereas the proposed kitchen addition falls within Zone I of the property’s existing Public Water System (PWS) and whereas construction is not permitted within a PWS Zone I, the applicant seeks to de-certify the PWS. In order to approve the de-certification, MassDEP has requested that the Applicant amend the Special Permit text to limit the usage of the property to below the threshold for a PWS, defined as a system that “regularly serves an average of at least 25 individuals daily at least 60 days of the year.”¹

The proponent is petitioning the ZBA to amend the text of the referenced Special Permit as follows:

To section “*Decision (iv)*”:

Existing Text:

“increasing the number of events held at the Locus to 130 per year, including the service of alcoholic beverages and entertainment, subject to the following conditions.”

Proposed Amended Text:

“limiting the number of events with 25 or more guests served at the Locus to 59 or fewer per year, including the service of alcoholic beverages and entertainment, subject to the following conditions...”

To section “*A. Conditions*”:

Text Addition:

“If the Applicant ever seeks to hold more than 60 events with an average of 25 guests or more per year, the Applicant will register the property’s well as a Public Water System (PWS) through the MassDEP. With a PWS, the property will be allowed to host up to 130 events per year of any size.”

We believe the proposed text amendment is de minimis. On behalf of the proponent, we respectfully request the ZBA amend the text of the referenced Special Permit as requested and ask that all materials associated with the original filing be accepted by reference.

Worcester South District Registry of Deeds Electronically Recorded Document

This is the first page of the document – Do not remove

Recording Information

Document Number	: 103841
Document Type	: DECN
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Recorded Time	: 03:45:07 PM
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Number of Pages(including cover sheet)	: 7
Receipt Number	: 1471795
Recording Fee	: \$105.00

Worcester South District Registry of Deeds
Kathryn A. Toomey, Register
90 Front St
Worcester, MA 01608
(508) 798-7717

OFFICE OF THE
HARVARD ZONING BOARD OF APPEALS

13 AYER ROAD HARVARD, MA 01451

978-456-4100 EXT.321

www.harvard-ma.gov



SPECIAL PERMIT DECISION

RE: Application of William Ference for a Special Permit

PROPERTY ADDRESS AND TITLE REFERENCE: 247 Littleton County Road, Harvard Massachusetts; Assessors Map 14, Parcels 53.1 and 53.2; Worcester District Registry of Deeds, Book 21955, Page 5 and Book 60401, Page 353

DATE: April 27, 2022

FINDINGS AND DECISION

I. Procedural History

On March 10, 2022 the applicant, William Ference (the "Applicant") filed an application ("the Application") with the Board of Appeals ("ZBA") seeking a special permit pursuant to the provisions of Sections 125-3, Paragraphs C and D of the Protective Bylaw ("the Bylaw") to allow changes and modifications to the prior nonconforming structure and uses at 247 Littleton County Road, Harvard, Massachusetts (the "Locus"), also known as "Friendly Crossways", by (i) constructing an approximately 1,200 square foot addition at the rear of the building and installing a commercial kitchen in the addition to prepare food for events; (ii) enhancing the outdoor area behind the existing building with a constructed platform and seasonal tent; (iii) constructing a new gravel parking lot in the southeastern corner of the adjacent corn field; and (iv) increasing the number of events held at the Locus to 130 per year.

A notice of the public hearing on the Application, a true copy of which is on file in the Office of the Town Clerk, was:

1. Published in the Harvard Press, a newspaper with general circulation in the Town of Harvard on March 18, 2022 and March 25, 2022;
2. Posted in a conspicuous place in the Harvard Town Hall on March 15, 2022, which was at least fourteen (14) days prior to the ZBA's hearing; and
3. Mailed, postpaid, on March 15, 2022, which is at least fourteen (14) days before the hearing to the Applicant, abutters, owners of land directly opposite the Locus on

any public or private street or way, abutters to the abutters within three hundred (300) feet of the Locus, the planning boards of the abutting towns. The notice was mailed to the names and addresses shown on the most recent tax list provided by the Assessor's Office.

A public hearing before the ZBA on the application was held on April 13, 2022 and April 27, 2022, on which date the hearing was closed.

At the hearing, the Applicant and his engineer, Goldsmith, Prest and Ringwall, Inc. presented the ZBA with the Applicant's plans, photographs and supporting materials concerning the proposed changes to the structure and uses at the Locus.

In addition to the Application, the ZBA received and reviewed the following documents relative to the Application:

- ZBA Special Permit Plan - Site Plan 247 Littleton County Rd., prepared by Goldsmith, Prest & Ringwall, Inc. dated March 2022.
- Architectural plans for Ference Catering, Harvard MA, prepared by Becthel Frank Erickson Architects, Inc.
 - A-1 SW Elevations Proposed and Existing
 - A-2 NW Elevations Proposed and Existing
- Letters of support from Suzanne Buell of 237 Littleton County Rd, and from Todd Brown and Rob Cullinane of 279 Littleton County Rd.

The ZBA received written comments on the Application by letters from the Board of Health dated April 12, 2022 and the Building Commissioner dated April 13, 2022.

No parties in interest appeared or voiced their opposition to the requested special permit.

The ZBA deliberated on this decision at its meeting of April 27, 2022, and made the following findings and decision based on the foregoing documents and other evidence submitted at the public hearing.

II. Findings

A. General

1. The Locus is owned by Mary Helen Vesenka-Turner and Keith Turner (Parcel 53.1) and Mary Helen Vesenka-Turner, James P. Vesenka, Ruth Anne Lewis and Hannah

Roeder (Parcel 53.2).

2. The Locus has a land area of approximately 24.57 acres, in the aggregate. It is improved with a residential building having a floor area of approximately 13,040 square feet, which was constructed on or about 1880. The Locus has frontage on and is accessible from Littleton County Road.
3. The Locus is situated in the AR (Agricultural/Residential) Zoning District.
4. The Building on the Locus is non-conforming as to front setback and size. The existing front yard setback is approximately sixty-five feet (65') from the centerline of the road and which is less than the current requirement under the Bylaw of seventy-five feet (75'). The gross floor area of the building of approximately 13,040 square feet is greater than the maximum allowable floor area under Section 125-37 of Bylaw, Major Buildings, of 10,000 square feet.
5. The existing and prior uses of the Locus as an event venue, including the service of alcoholic beverages and entertainment, a retreat and conference center with lodging, and a hostel are nonconforming in the AR Zoning District.
6. The proposed uses of the Locus as an event venue, including the service of alcoholic beverages and entertainment, a retreat and conference center with lodging, and a hostel are nonconforming in the AR Zoning District.

B. Special Permit

1. The nonconforming aspects of the building on the Locus as to front setback and size pre-date the first Bylaw adopted by the Town. Those aspects of the building are prior nonconforming or grandfathered.
2. The existing and prior uses of the Locus, which began on or about 1947, as an event venue, including the service of alcoholic beverages and entertainment, a retreat and conference center with lodging, and a hostel pre-date the first Bylaw adopted by the Town. Said uses have not been abandoned or discontinued for a period of 2 years or more since they were commenced. Those uses are prior nonconforming or grandfathered.
3. The proposed changes to the building and parking area on the Locus:
 - a.) will not result in substantial increase of volume or rate of surface water runoff to neighboring properties and streets, and will not result in substantial danger of pollution or contamination of the groundwater supply, a groundwater absorption area, a well, pond, stream, watercourse, W District, or inland wetland. Any and all surface water runoff resulting from the changes will be retained within the Locus.

- b.) will result in no substantial increase in traffic, compared to refusal of the special permit, on any residential street where the Locus have access;
 - c.) will be in harmony with the general purpose and intent of the Bylaw, including each purpose stated in § 125-1, Purpose, which is pertinent to the Application;
 - d.) would have been permitted before the building became non-conforming; and
 - e.) will not be substantially more detrimental to the neighborhood than the existing non-conformity.
4. The proposed change to the nonconforming uses of the Locus will not be substantially more detrimental than the existing non-conforming uses to the neighborhood.

III. Decision

Based on the foregoing evidence and findings, on April 2022, the ZBA voted unanimously (Chairman Tracey and Members Lawton and Maxant) to grant a special permit pursuant to the provisions of Section 125-3, Paragraphs C and D of the Bylaw, to allow changes and modifications to the prior nonconforming structure and uses at the Locus by (i) constructing an approximately 1,200 square foot addition at the rear of the building and installing a commercial kitchen in the addition to prepare food for events; (ii) enhancing the outdoor area behind the existing building with a constructed platform and seasonal tent; (iii) constructing a new gravel parking lot in the southeastern corner of the adjacent corn field, all as shown on the plans and drawings referenced above and (iv) increasing the number of events held at the Locus to 130 per year, including the service of alcoholic beverages and entertainment, subject to the following conditions:

A. Conditions

1. Before the issuance of a building permit for said changes to the building, the Applicant shall obtain:
 - a.) Site Plan approval from the Planning Board; and
 - b.) a subsurface wastewater disposal permit.
2. Before the use of the commercial kitchen for catered events, the applicant shall obtain:
 - a.) a Certificate of Compliance for the installed subsurface wastewater disposal system; and

b.) approval of the Harvard Board of Health of the commercial kitchen facility in accordance with Massachusetts DPH and Federal Food Code requirements.

3. Before serving alcoholic beverages at any events at the Locus, the Applicant shall obtain the appropriate liquor licenses from the Select Board and/or the Alcoholic Beverages Control Commission.
4. Before serving food and nonalcoholic beverages at any events at the Locus, the Applicant shall obtain a common victualler's license from the Select Board
5. Before providing any entertainment at any events at the Locus, the Applicant shall obtain the appropriate entertainment licenses from the Select Board.
6. Before providing any lodging to guests at the Locus, the Applicant shall obtain an inn keeper's license from the Select Board.
7. Before erecting any tent(s) at the Locus for which a tent permit is required, the Applicant shall obtain a tent permit(s) from the Building Commissioner.
8. Events at the Locus shall begin no earlier than 8:00 A.M. and shall end no later than 11:00 P.M. Amplified music played or broadcast at such events shall occur only during hours established by the Select Board as conditions of entertainment licenses.
9. Noise generated by events at the Locus shall comply with MassDEP's noise pollution policy and 310 CMR 7.00, *et seq.*
10. Before the Applicant exercises the rights granted under this Special Permit, he shall record an attested copy of it at the Worcester District Registry of Deeds in the chain of title to the Locus and provide documentation of said recording to the Building Commissioner.
11. The modifications and changes to the Locus and the building on the Locus shall be substantially the same as those shown on the Special Permit Plan and Architectural plans referenced above. De minimis modifications to said plans may be may by the Applicant, with the approval of the Building Commissioner, without review and approval by the ZBA.

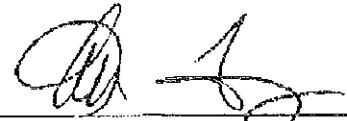
B. Terms

Action under this Special Permit shall lapse two (2) years from its date of issuance, but shall not include such time require to pursue or await the determination of an appeal referenced to in M.G.L. Chapter 40A, §17.

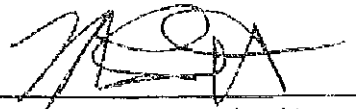
An appeal may be made pursuant to §17 of MGL Chapter 40A within twenty (20) days after the decision is filed with the Town Clerk.

This decision is not valid until after the Town Clerk of Harvard has certified it with respect to appeal provided in §9 of MGL Chapter 40A and a copy so certified has been recorded in the Worcester Registry of Deeds, referenced to the land.

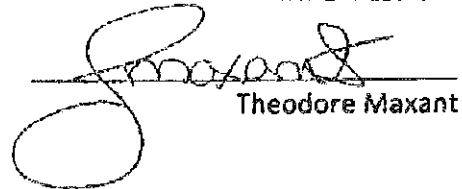
This decision does not waive or otherwise alter the requirements of the Harvard Protective Bylaw or any other law or ordinance. A copy of this decision showing book and page number of recording shall accompany an application for a building permit.



Christopher Tracey, Chairman



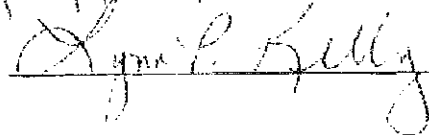
Michael Lawton



Theodore Maxant

This is to certify that as of June 16, 2022 no notice of appeal has been filed with this office in regard to this decision. I hereby certify that the twenty day appeal period has lapsed.

Signed:



Lynn Kelly, Town Clerk