



## 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

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### NOTICE OF DECISION - SPECIAL PERMIT

Date: May 18, 2020

Issued to: Catamount Ski Resort, LLC

An application was made for a special permit on February 25, 2020 to Catamount Ski Resort, LLC to expand the pre-existing nonconforming structures and uses of the ski area lodge and lifts located at 17 Nicholson Road, expanded off ski season activities, including indoor and outdoor social and recreational events.

The Board of Appeals, (original meeting scheduled for April 2, 2020 was cancelled due to COVID19) at a zoom meeting on Thursday, April 30, 2020, and continued on May 14, 2020, made a decision with reference to the above application by voting as follows:

To approve the application for special permit under the following article and section of the Zoning Bylaw: 4.3.1.5, with the attached 27 conditions.

Signed: \_\_\_\_\_

*G. Elliott*  
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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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 Catamount Ski Area, LLC for a special permit under the following articles and sections of the Egremont Zoning By-Law: 4.3.1.5.

The applicant is asking for an expansion of pre-existing, non-conforming use of property for expanded off ski season activities, including indoor and outdoor social and recreational events.

The premises affected are located at 17 Nicholson Road, Egremont MA.

1. On February 25, 2020 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 Record, a newspaper published in Great Barrington Mass, on 3/19/2020, 4/6/2020 and 7/6/18.
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 3/6/2020 and 4/6/2020.
4. On, April 30, 2020 and May 14, 202 a hearing was held via zoom meeting at which hearing opportunity was given to all those interested to be heard in favor or opposition to said application.

Members present: Elliott Snyder, Cathy Fracasse and Mark Holmes.

5. During the hearing, the Board made the following specific findings regarding the property 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.
  - B. The proposed amendment is essential or desirable to the public convenience or welfare at the proposed location.
  - C. The proposed amendment is not detrimental to adjacent uses or to the established or planned future character of the neighborhood.
  - D. The proposed amendment will not create undue traffic congestion, or unduly impair pedestrian safety.
  - 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. The Board voted at its meeting on Tuesday, July 17, 2018 as detailed below, to

**GRANT** the application with the 27 conditions attached.

The Zoning Board of Appeals unanimously voted to grant a special permit to Catamount Ski Area LLC under the following article and section of the Zoning Bylaw: 4.3.1.5, expanded off ski season activities, including indoor and outdoor social and recreational events.

Members:

Elliott Snyder - yes; Cathy Fracasse - 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

mab

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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**

TO: Catamount Ski Area LLC

By the Zoning Board of Appeals affecting the rights of the owner with respect to the use of the premises at:

17 Nicholson Road, Egremont MA

The record title standing in the name of:

17 Nicholson Road, Egremont MA 01258

By deed duly recorded in the Southern Berkshire District, Berkshire County Registry of Deeds in Book 2473 Page 1 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 with 27 conditions and grants special permit to Catamount Ski Resort, LLC, 17 Nicholson Road, Egremont expanded off ski season activities, including indoor and outdoor social and recreational events as allowed by Egremont Zoning Bylaws Section 4.3.1.5.

Signed and certified this 18th day of May, 2020.

The Egremont Zoning Board of Appeals: [Signature] Chair

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**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

### **Special Permit Conditions**

The following conditions shall be incorporated into the Special Permit granted by the Egremont Zoning Board of Appeal on May 14, 2020.

1. Throughout these conditions, the term "Property" shall mean the real property known as Catamount Ski Resort.
2. These conditions shall apply only to new activities (additional off ski season / summertime events activities occurring between April 1<sup>st</sup> and November 30<sup>th</sup> and the additional uses of the lodges for non-ski area or non-ropes course related uses) and shall not restrict previously ongoing activities and uses that are otherwise previously permitted or allowed by right.
3. Indoor events in the Catamount Lodge shall be limited to 339-person occupancy (the total onsite occupancy limit is 1,662).
4. Indoor event hours shall be 8:00AM to 11:00PM (set up may occur prior to 8:00AM and clean up may continue past 11:00PM).
5. Indoor amplified music shall end at 11:00PM.
6. Outdoor events shall end by 9:00PM.
7. Amplified sound at outdoor events shall end 9:00PM.
8. This permit does not allow outdoor only music events without a separate special permit application and approval by the appropriate authority.
9. Outdoor events with more than 1,000 total attendees shall be limited to not more than 6 events per summer season per total event cap below. Property shall implement mechanism for counting attendees throughout each event. No event shall have more than 2500 attendees overall.
10. Outdoor events with between 500 and 1,000 total attendees shall be limited to not more than 6 events per summer season per total event cap below. Property shall implement mechanism for counting attendees throughout each event.
11. **Total** outdoor events greater than 500 total attendees shall be limited to a total of 6.
12. Outdoor sporting events hours shall be 8:00AM to 8:00PM (set up may occur prior to 8:00AM and clean up may continue past 8:00PM).
13. Fireworks shall be limited to 2 times per summer and shall end by 10:00PM.
14. The Operator shall not permit or cause a noise which is objectionable due to volume, intermittence, beat frequency, audible pure tones or shrillness to be transmitted outside the Property, and in no case shall such noise exceed 60 dB(A) at any property line or cause the broadband sound level at a residence or building housing sensitive receptors to exceed ambient

background by more than 5 dB(A), nor shall any noise be otherwise in violation of any General Law, Regulation or By-Law. The Operator shall at all times comply with Massachusetts Department of Environmental Protection noise regulation. This provision shall not apply to summer fireworks displays.

15. Outdoor summertime recreational activities shall not include gasoline powered motorized vehicles, such as motorcycles, all terrain recreational vehicles and the like (motorized vehicles may be operated by staff ancillary to such activities). No throttled cycles or other vehicles will be utilized.
16. No additional ziplines shall be installed using a combination of metal cables and metal rollers (existing ziplines may be maintained and replaced).
17. Mountain lighting shall not be used during the summer season.
18. Catamount Ski Resort shall give notice to the police department of any event exceeding 300 participants and, as required, employ off duty police or deputy sheriff officers for security and traffic control as may be required from time to time by the Zoning Enforcement Officer. Such notice will be provided fourteen (14 days) prior to the event.
19. If authorized by the Town of Egremont, Catamount Ski Resort shall facilitate temporary closure of Nicholson Road for access to the property by attendees, and will, in any event, will provide signage discouraging the use of Nicholson Road.
20. Catamount Ski Resort shall conduct outdoor events such that traffic impacts to the Town of Egremont are not excessive nor unreasonable. In the event the town asserts such unreasonable or excessive traffic impacts have occurred, Catamount Ski Resort shall complete and provide a traffic study and implement remedial measures as deemed necessary.
21. Catamount Ski Resort will apply for individual one-day Special Permits to serve alcohol anywhere other than in the permitted lodges and adjacent areas as allowed by the current liquor license.
22. Catamount Ski Resort shall make a telephone number available to all abutters, abutters within 300 feet of the Property, for complaints about noise, traffic, safety, or any other issue and shall investigate any such complaint and respond to the complainant within 24 business hours and shall take corrective action to eliminate the issue at the earliest time practicable.
23. Catamount Ski Resort will provide a 24-hour emergency contact number and fourteen (14) days' notice of events where more than 500 attendees are anticipated to the Police Department and to abutters who request such information in writing.
24. The Operator shall keep a log of all complaints and corrective actions taken, which log shall be available to the Zoning Enforcement Officer and the Police Department upon request.
25. This Special Permit is granted to the Catamount Ski Resort, LLC, and on the condition that James R. Schaefer and Jonathan C. Schaefer own a controlling interest in Catamount Ski Resort, LLC.

26. Compliance with all conditions of this Special Permit may be reviewed by the Zoning Board of Appeals at a public meeting, and if the Board has determined that there has been a material and continuing violation of these conditions, the Board may impose appropriate sanctions, including modifying these conditions.
27. Catamount Ski Resort shall comply with all other applicable federal, state, and local laws, rules, and ordinances applicable to the Property, any uses thereof, and construction of any improvements.