



## 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

email: [tegremont@egremont-ma.gov](mailto:tegremont@egremont-ma.gov)

### NOTICE OF DECISION - SPECIAL PERMIT

Date: July 14, 2022

Issued to: New Green LLC

An application was made to allow New Green LLC, 71 Main Street, to amend the special permit issued on June 27, 2019 to change its hours of operation, appointment hours and to allow for a food truck no more than 12 times per year.

The Board of Appeals, at a zoom meeting held on Thursday, July 7, 2022, made a decision with reference to the above application by voting as follows:

To approve the application to amend the special permit, under the Zoning Bylaw section 4.3.1.5, with the following conditions:

1. Hours of Operation: Change hours of operation from 11AM – 8PM 7 days/week, to 8AM – 8PM 7 days/week.
2. t Appointments/Pre-Orders: **Eliminate** the requirement for both/either; walk-ins will now be permitted.
3. The ZBA **makes no finding** relative to the request for a food truck because the Board does not believe that it has jurisdiction

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

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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Date: July 14, 2022

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 New Green LLC.

The applicant sought to amend the special permit issued June 27, 2019 to amend hours of operation, appointment hours and to allow for a food truck no more than 12 times a year as allowed by Zoning Bylaw section 4.3.1.5.

The premises affected are located at 71 Main Street, Egremont MA.

1. On May 27, 2022, 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 Eagle, a newspaper published in Great Barrington Mass, on 06/23/2022 and 06/30/2022.
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 06/08/2022.
4. On, Thursday, July 7, 2022, a hearing was held with the members of the Zoning Board of Appeals present via zoom, and the applicant and interested parties present via Zoom (as allowed under the COVID19 Pandemic guidelines) at which hearing opportunity was given to all those interested to be heard in favor or opposition to said application.

Members present: Voting Cathy Fracasse, Rolfe Tessem, Mark Holmes.

5. Following 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.)

6.2.4.1 Is in compliance with all other provisions and requirements of the Bylaw, and in harmony with its general intent and purpose.

The amendment constitutes a minor change to the existing permit, altering only the hours of operation and nature of walk-in traffic. No other provisions within the Bylaw are impacted by this amendment, and abutters, other business owners and community members continue to be in support.

6.2.4.2 Is essential or desirable to the public convenience or welfare at the proposed location.

The amendment constitutes a minor change to the existing permit, altering only the hours of operation and nature of walk-in traffic. There is public interest in maintaining the successful operation of the business and

improving access to the services offered will improve the opportunities for business success. Neighbors, abutters and community members are almost unanimously in support of the operation and the alterations.

6.2.4.3 Will not be detrimental to adjacent uses or to the established or planned future character of the neighborhood.

Abutters and neighboring businesses continue to be in support of this business, and of the changes. The operators of Devine have worked with neighbors, the property owner, and other community members to limit any potential adverse impact and to ensure continued successful operation of neighboring businesses.

6.2.4.4 Will not create undue traffic congestion, or unduly impair pedestrian safety.

The operation of the business thus far has alleviated any concerns with parking and/or traffic issues. The operators continue to work with neighboring businesses to ensure sufficient parking, and have provided a 'parking attendant' to supervise the parking area to positive effect.

6.2.4.5 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.

This change has no impact on this section.

The Board voted at its meeting on Thursday, July 7, 2022 as detailed below, to

**GRANT** the application

To approve the application to amend the June 27, 2019 special permit, under the Zoning Bylaw section 4.3.1.5, to amend hours of operation, appointment hours and allow a food truck no more than 12 times a year with the following conditions:

1. Hours of operation: Change hours of operation from 11AM - 8PM 7 days /week, to 8AM - 8PM 7 days/week.
2. Appointments/Pre-Orders: **Eliminate** the requirement for both/either, walk-ins will now be permitted.
3. The ZBA **makes no finding** relative to the request for a food truck because the Board does not believe that it has jurisdiction.

Members:

Cathy Fracasse - yes: Rolfe Tessem - 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



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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, OR VARIANCE**

TO: New Green LLC

By the Zoning Board of Appeals affecting the rights of the owner with respect to the use of the premises at:  
71 Main Street, Egremont MA \_\_\_\_\_


The record title standing in the name of Karner Brook LLC.

By deed duly recorded in the Southern Berkshire District, Berkshire County Registry of Deeds in Book  
2417 Page 238 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 and grants permit for an amended special permit, under the Zoning Bylaw section 4.3.1.5, to amend the hours of operation, appointment hours, and a food truck no more than 12 times a year with the following conditions:

1. Hours of Operation: Change hours of operation from 11AM – 8PM 7 days/week, to 8AM – 8PM 7 days/week.
2. Appointments/Pre-Orders: **Eliminate** the requirement for both/either; walk-ins will now be permitted.
3. The ZBA **makes no finding** relative to the request for a food truck because the Board does not believe that it has jurisdiction

Signed and certified this July 14, 2022

The Egremont Zoning Board of Appeals:  Chair

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**New Green, LLC, 71 Main Street, Special Permit**

**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.

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Signature and Seal of the Town Clerk

Date: \_\_\_\_\_