

AUG 21 2014

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THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF LUNENBURG
ZONING BOARD OF APPEALS

August 19, 2014

CERTIFICATE OF GRANTING OF SPECIAL PERMIT

A Special Permit is hereby granted to Kenneth J. Ricker & Joshua Hillman, dba "Embers Pizzeria", 84 Lakefront Avenue, Lunenburg, MA 01462, under the Lunenburg Protective Zoning By-Law Section 4.6.3.1.j). The petitioners were seeking a Special Permit for the purpose of adding an outside dining area enclosed by fencing.

The Board of Appeals of the Town of Lunenburg hereby certifies that a Special Permit has been granted pursuant to the Protective Zoning By-Law of the Town of Lunenburg.

Board Members present: Donald F. Bowen, Chairman, Raymond Beal, Hans Wentrup, Alfred Gravelle, and James Besarkarski. Associate members Paul Doherty and David Blatt were present but not voting.

Special Permit is issued to Kenneth J. Ricker & Joshua Hillman, dba "Embers Pizzeria" 84 Lakefront Avenue, Lunenburg, MA 01462, affecting the rights of the owner with respect to land and buildings at **84 Lakefront Avenue, Lunenburg, MA 01462**, Book 8089, Page 83, and dated 3/6/14, as described in plans submitted with the petition. Assessors Map 98/35.

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit, and that copies of said decision, and all plans referred to in the decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering.

DISCUSSION

Chairman Bowen opened the meeting and Lisa Normandin, Board Secretary, read the petition. Kenneth Ricker addressed the Board and explained that he would like to have an outdoor seating area at his new restaurant "Embers Pizzeria". Mr. Ricker received all of the appropriate licenses from the Board of Selectmen and was preapproved by the licensing authority and the Alcoholic Beverage Control commission to have outdoor seating. Mr. Ricker was unaware that he needed approval from the Zoning Board of Appeals to move forward with the plan and would like get the seating outdoors while the weather is still fair and to enhance the business structure.

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John Baker of 53 Chase Road, Lunenburg spoke in favor of the petitioners. Mr. Baker said that he has been a resident of Town for 46 years and has seen a tremendous change in the culture and upgrading of the Lakefront Avenue area. He said that the applicants have done a fantastic job with the changes made at the former Scooters location by the addition of the pizzeria as well as their other business at 96 Lakefront Avenue, "On the Rocks". He indicated that many area restaurants are adding the outdoor seating to increase their bottom line and urged the Board to grant the petitioners request.

Alfred Gravelle visited the site and asked Mr. Ricker to explain the twenty foot width that he was requesting to the right area of the building. Mr. Ricker explained that he would like to add twelve feet to the existing eight foot concrete area by eliminating three parking spaces in front of the building. Mr. Gravelle asked if he owned the parking area because it is unclear how much land area is with the building and cannot define the area owned by the applicant and what is owned by the Town of Lunenburg. Mr. Ricker could not say how far the property line extended to the front of the building. Mr. Ricker said that he went over the plan with Police Chief Marino and there were safety concerns with regard to traffic. Mr. Ricker intends to fence in the area with concrete pylons placed approximately six to seven feet apart with black metal decorative fencing.

Hans Wentrup expressed serious concerns with regard to locating the outdoor seating in the parking area beyond the existing 8x30 concrete pad. Mr. Ricker indicated that he was not trying to gain any land or create any problems with regard to being in the public way, he only wanted outdoor seating and can live within the parameters that the Board sets forth.

The Board was only concerned for safety of the patrons and employees but not comfortable approving an area that is not defined by plot plan and deed. The Board discussed in detail allowing the outdoor seating but limited to the existed concrete pad defined by an 8x30 section to the right and a walkway area to the left as shown on submitted plan dated 7/1/14. Mr. Ricker said that he didn't want to spend additional money on attorney or surveying fees, he only wants to give diners an opportunity to be outdoors. Mr. Wentrup explained that if in the future the parcel was surveyed and the ownership area defined by metes and bounds, the Board would welcome the applicant to come forward with an additional seating request.

Paul Doherty added that looking at the plan it appears that the building is actually at the lot line. If the area extended into the parking lot where the barriers currently are there may be issues with regard to snow removal during the winter months.

MOTION

After due deliberation Alfred Gravelle made a motion to allow the outdoor seating area specifically defined to the 8x30 area to the right of the door and to the left on the existing cement walkway. Raymond Beal seconded the motion.

FINDINGS

In granting a Special Permit, the Board of Appeals found that the proposed use:

- a. Will not be injurious or dangerous to the public health, or unduly hazardous because of traffic congestion, danger of fire or explosion, or other reasons.
- b. Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.
- c. Will be operated with reasonable regard for order and sightliness, if an open use.
- d. Will not produce noise, vibration, smoke, dust, odor, heat or glare observable at the lot lines in amounts clearly detrimental to the normal use of adjacent property.

The Special authorization is granted with the contingency that Kenneth J. Ricker and Joshua Hillman, dba Embers Pizzeria comply with all licenses, regulations, statutes and ordinances of any and all applicable state, local and federal board or agencies with jurisdiction over the premises.

The Special Permit is subject to a periodic review by the permit granting authority (Zoning Board) or the Enforcement Officer, to insure compliance with the enumerated conditions. Non-compliance to these conditions may result in revocation of this permit.

After closing the discussion, the Board acting in its capacity as the Special Permit Granting Authority, granted the Special Permit with the above members present and voting as follows with respect to the issuance of the Special Permit.

DECISION

After due deliberation, the Board found that on the basis of all of the data presented, the permit is granted under the contingency that Kenneth J. Ricker & Joshua Hillman comply with all licenses, regulations, statutes and ordinances of any and all applicable state, local and federal board or agencies with jurisdiction over the premises. The Board also found that the outside dining area would not nullify or derogate from the intent and purpose of the Lunenburg Protective Zoning By-laws.

VOTE

- Donald Bowen voted in favor of granting the Special Permit.
- Raymond Beal voted in favor of granting the Special Permit.
- Alfred Gravelle voted in favor of granting the Special Permit.
- Hans Wentrup voted in favor of granting the Special Permit.
- James Besarkarski voted in favor of granting the Special Permit.

In making this determination, the Board specifically found that the granting of this Special Permit would not contravene the purpose of the Protective Bylaws or the provisions of Chapter 40A of the Massachusetts General Laws.

Voted and executed

Lunenburg Zoning Board of Appeals
Special Permit Granting Authority


Donald F. Bowen, Chairman 8/21/2014
Date

KJ WATERFRONT INC. DBA: EMBERS PIZZERIA 84 LAKEFRONT AVE

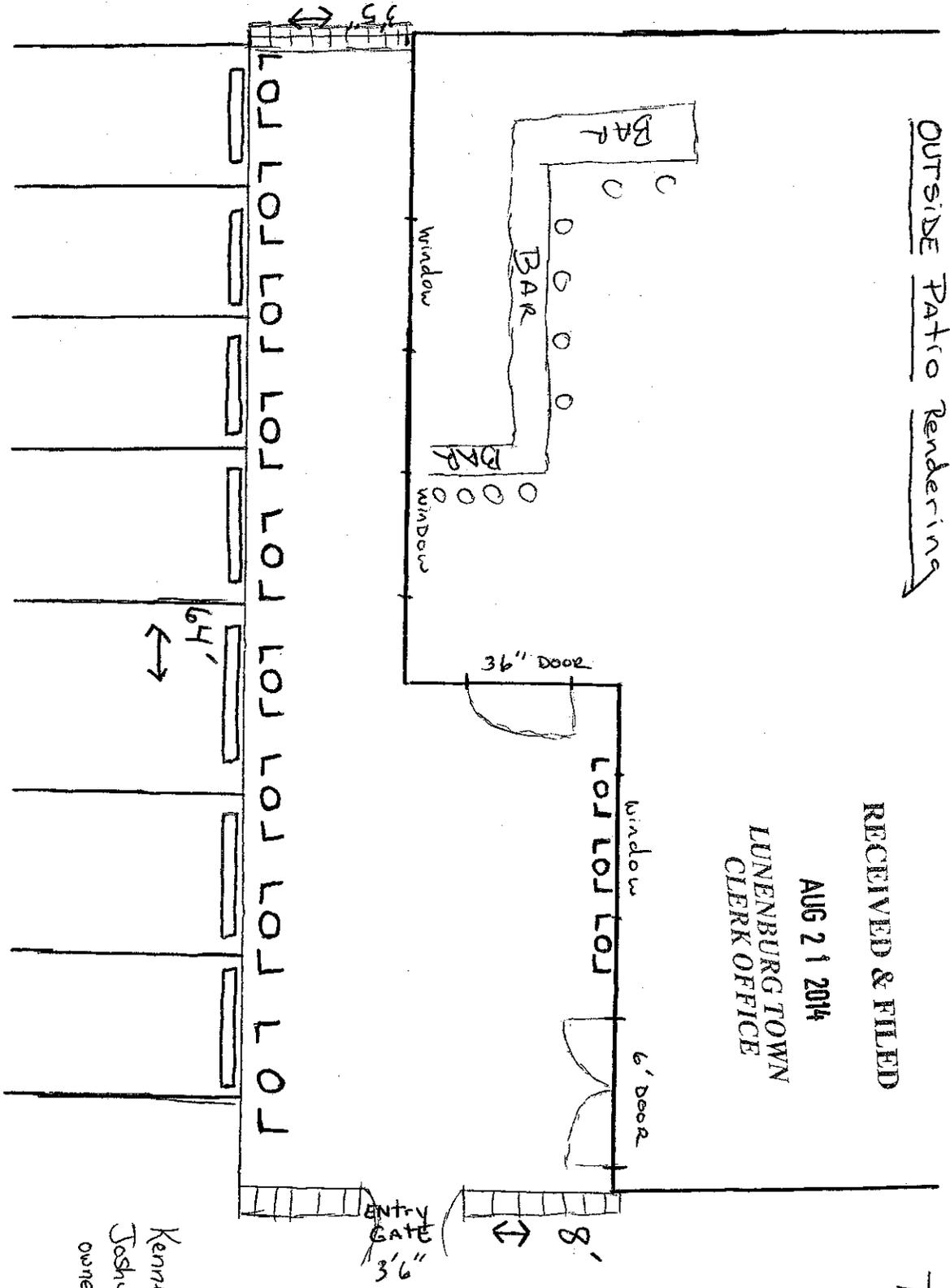
OUTSIDE PATIO RENDERING

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7-1-14



- L = Chairs
- O = Tables
- [Horizontal Line] = Parking Barrier
- [Vertical Line] = Black Metal Fencing Surrounding Entire Outdoor Paton with a Double Door Gate

Kenneth J Ricker
 Joshua T. Hillman
 owners

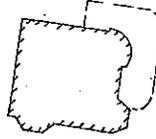
ROBERT S. LUFKIN ESTATE

N85°-20'E - 427.35'±

41,162 SQ. FT.

S85°-20'W - 416.4'±

WHALOM PARK AMUSEMENT CO.
N3°-15'E - 104.3'±



N80°-38'W - 20'
32.05'
2,446 SQ. FT.
76.42'
S80°-17'E - 10'
S89°-05'W - 76.82'
S89°-05'W - 20'

LAKE FRONT AVE.

WHALOM PARK AMUSEMENT CO.

I CERTIFY THAT THIS PLAN MEETS WITH REGULATIONS OF REGISTERS OF DEEDS.

William R. Bingham

LUNENBURG PLANNING BOARD
APPROVAL UNDER THE SUBDIVISION CONTROL
DATE: ~~August 12, 1980~~ LAW NOT REQUIRED

[Signatures]

David P. Demers

SIGNED BY PLANNING BOARD IN ACCORDANCE W/ SECTION 21-L OF M.G.L.

LAND IN LUNENBURG, MASS.

OWNED BY

BETTINA M. ASSELTA ET AL

AUG. 6, 1980



WILLIAM R. BINGHAM & ASSOC.-REG. ENGRS. & SURVEYORS
24 COLUMBIA ST. - LEOMINSTER, MASS.

PLAN II-C-481

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