



**TOWN OF BOLTON**  
**ZONING BOARD OF APPEALS**

Town Hall, 663 Main Street, Bolton, MA 01740  
Phone: 978-779-3308 Fax: 978-779-5461

**SPECIAL PERMIT FINDINGS AND DECISION**

Petitioner: Bolton Cracker Barrel LLC  
3138 Ivyhill Ct  
Holiday, FL 34691

Premises: 718 Main Street  
Bolton Assessor's Map 1.0 Parcel 36

Owner: Bolton Cracker Barrel LLC  
3138 Ivyhill Ct  
Holiday, FL 34691

Deed Reference: Worcester District Registry of Deeds, Book 40587 Page 60

Date Petition filed with Town Clerk of Bolton, MA: August 31, 2017

Type of Application: Special Permit

Applicable Zoning Bylaw of the Code of the Town of Bolton, MA: Section 250-3.C

Hearing Date: October 16, 2017, October 30, 2017 and November 13, 2017

Members Present: Gerard Ahearn, Andy Kischitz, Bradley Reed, Kay Stoner, and  
Jack Sargent

Decision: On November 13, 2017, the Board of Appeals voted to **approve** the petition seeking Special Permit.

**PROCEDURAL HISTORY**

1. On August 31, 2017 Bolton Cracker Barrel LLC (hereinafter, the Applicant ), applied to the Zoning Board of Appeals (ZBA) for a Special Permit to alter the pre-existing nonconforming use of the Premises located at 718 Main Street, Bolton, MA 01740 pursuant to Section 250-3.C of the Code of the Town of Bolton. The Premises is identified on the Bolton Assessor's Map 1.0 as Parcel 36 located in the Residential Zoning District.
2. The Applicant seeks to alter the pre-existing nonconforming use of the first floor of the Bolton Cracker Barrel building (hereinafter, the Bolton Cracker Barrel) from office to office and/or retail use. The first floor of the Bolton Cracker Barrel was previously a real

estate office until April 2016. The Applicant is interested in altering the use to allow for retail space that has low volume traffic.

3. A duly posted public hearing was held on October 16, 2017 at 7:20 p.m. at the Bolton Town Hall. Chairman Gerard Ahearn read the Notice of Public Hearing of the request for a Special Permit pursuant to Section 250-7.D of the Code of the Town of Bolton. The hearing was continued to October 30, 2017 and November 13, 2017. The Board closed the hearing and voted on November 13, 2017.
4. Members of the Board attending all sessions of the public hearing, deliberating and voting on the Petition were Gerard Ahearn, Andy Kischitz, Bradley Reed, Kay Stoner, and Jack Sargent.
5. Throughout its deliberations, the Board was mindful of the statements of the Applicant and the comments of the general public, all as made or received at the public hearing.

### **RECORD DOCUMENTS**

During the course of the public hearing the documents, plans, and other written materials set forth in Appendix A were received by the Board and incorporated into the record.

### **CRITERIA FOR SPECIAL PERMIT**

The criteria for the grant of a Special Permit to alter a pre-existing nonconforming use pursuant to Section 250-3.C of the Code of the Town of Bolton is that the alteration should not be substantially more detrimental to the neighborhood than the existing uses. Section 250-3.C of the Code, provides that generally any increase of no more than 100% of the floor area for a structure existing prior to April of 1972 or 50% of the ground area in use shall be considered as not substantially more detrimental to the neighborhood than the prior nonconforming structure.

### **FINDINGS**

Based upon the information submitted at the public hearing, including the record documents and comment received from the public, the Board makes the following specific findings with regard to the alteration of the pre-existing nonconforming use:

1. The Premises is located at 718 Main Street, Bolton, MA 01740, identified on Bolton Assessor's Map 1.0 as Parcel 36, and is owned by Bolton Cracker Barrel LLC, 3138 Ivyhill Ct, Holiday, FL 34691. The Premises is located in the Residential Zoning District.
2. The Applicant submitted a complete application in accordance with the Code of the Town of Bolton.
3. The pre-existing nonconforming structure and use have existed prior to the adoption of zoning. The Bolton Cracker Barrel was built in 1823 and is currently in the National Historic Registry. It has served as Bolton's post office and general store for over a century.

Most recently it served as offices for Coldwell Banker through April 2016. The Bolton Cracker Barrel is located at the juncture of Main Street and Wattaquaddock Hill Road. The Applicant has strived through the years to maintain the structure's original character. The windows in the front section of the building are original and the brickwork, front porch, chimneys, front doors and trim work are original or replaced to replicate the original.

4. The second floor of the Bolton Cracker Barrel contains two legal apartments.
5. The Applicant seeks to alter the pre-existing nonconforming use of the Premises from office to office and/or retail use. The Applicant is interested in altering the use to allow for retail space with low volume traffic. Such retail uses include a country store, specialty gift shop, antique store, art gallery, clothing store, jewelry store, craftsman studio with retail, and office with limited retail space (e.g., computer repair service with limited sales). The country store or specialty gift shop would serve basic items like bottled soft drinks, candy, snacks, etc. The specialty gift shop might also sell unique items like quilts, blankets, cook books, pottery, clothing, etc.
6. The first floor of the Bolton Cracker Barrel has a total of 1,770 square feet available for retail space. The Applicant does not intend to expand this floor area thus meeting the criteria for Special Permit noted above.
7. The Premises is served by a tight tank for sewer and well for drinking water. The tight tank requires routine pumping and maintenance.
8. In accordance with Board of Health requirements, coffee is not allowed to be served on the Premises or brewed offsite for onsite sale/consumption. Items allowed to be sold onsite are to be prepackaged only (e.g., bottled beverages, eggs, pre-made sandwiches, snacks, candy, etc.). No food or drink are to be prepared onsite.
9. The proposed parking will be limited to the existing parking area previously used by Coldwell Banker which also includes two (2) parking spaces reserved for apartment tenants. The parking is located in the rear of the Bolton Cracker Barrel and can accommodate up to seven (7) customer parking spaces. When Coldwell Banker occupied the Premises, there were 14 agents coming and going at various times throughout the day for 18 years. There were anywhere from two (2) to 12 cars parked side by side or in tandem at any one time.
10. An ADA accessible entrance will be provided at the rear of the Bolton Cracker Barrel. An ADA ramp will be constructed to accommodate access to this entrance which is closest to the parking area.
11. The property across the street from the Premises at 711 and 713 Main Street also have pre-existing nonconforming structures and uses in operation.
12. The requested alteration to the pre-existing nonconforming use will have no known negative impact on the environment.

13. The requested alteration to the pre-existing nonconforming use will not be substantially more detrimental to the neighborhood than the existing use. The proposed retail use will not expand beyond the existing floor area of the first floor of the Bolton Cracker Barrel previously used for office space.

### DECISION

Pursuant to M.G.L. c. 40A, Section 9 and Section 250-6 of the Code of the Town of Bolton, the Board, after public hearing and findings of fact, hereby votes to grant the Applicant's request for a Special Permit to allow office and/or retail use to operate on the first floor of the Bolton Cracker Barrel located at 718 Main Street in accordance with the following conditions:

1. The pre-existing nonconforming uses allowed to operate on the first floor of the Bolton Cracker Barrel shall include office and/or retail use. Retail use shall be limited to a country store, specialty gift shop, antique store, art gallery, clothing store, jewelry store, craftsman studio with retail, office with limited retail space (e.g., computer repair service with limited sales), or similar low volume retail use.
  - a. The country store or specialty gift shop may serve bottled beverages, candy and pre-packaged food items.
2. The pre-existing nonconforming uses prohibited from operating on the first floor of the Bolton Cracker Barrel shall include Lottery/Keno games, restaurant, coffee shop, or prescription pharmacy. Coffee shall not be served on the Premises or brewed offsite for onsite sale/consumption. No food or drink shall be prepared onsite.
3. Uses not specified above shall be automatically deemed uses requiring further review by the Board at one of their meetings attended by the Applicant. At said meeting, the Board will deliberate and make a determination as to whether said use is in conformance with the Special Permit, requires an amended/new Special Permit, or is prohibited.
4. The maximum allowable hours of operation per day for the Premises shall be 8 a.m. to 8 p.m.
5. The parking for the retail use on the Premises shall be limited to the existing parking area located at the rear of the Bolton Cracker Barrel which includes seven (7) customer parking spaces. Another two (2) parking spaces shall be reserved for the apartment tenants. If parking for retail use becomes a public safety hazard, the Board reserves the right to rescind this Special Permit.
6. An ADA accessible entrance shall be provided on the Premises. An ADA ramp shall be constructed at the rear of the Bolton Cracker Barrel to provide safe pedestrian access to and from the rear entrance which is closest to the parking area.
7. Sufficient lighting shall be provided on the Premises and may be reviewed at the request of the Bolton Police Department to ensure public safety of the intersection of Main Street

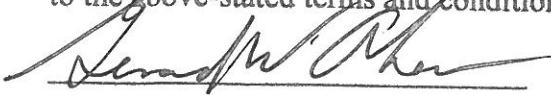
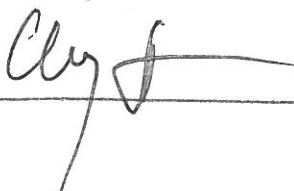
and Wattaquodock Hill Road. All lighting fixtures operating on the Premises shall be in accordance with Section 250-23.G.(10) of the Design Review Criteria of the Code. Luminaires shall be cutoff (downlight) type.

8. All interior lit signs shall be prohibited from being displayed in the windows of the Bolton Cracker Barrel for the purposes of retail and/or office use. All proposed exterior signage on the Premises shall be reviewed and approved by the Board of Selectmen in accordance with Section 250-18 of the Code of the Town of Bolton.
9. The retail and/or office use shall have no negative impact on the environment and shall prevent undesirable noise, odors, vibration, smoke, dust, fumes, heat or glare detectable to the normal senses off the Premises. All trash that is generated by the retail and/or office use shall be stored in trash receptacles and disposed off-site.

The following members of the Zoning Board of Appeals vote to grant a Special Permit subject to the above-stated terms and conditions: **Gerard Ahearn, Bradley Reed, Kay Stoner and Jack Sargent voted in favor. Andy Kischitz voted no/against. The Special Permit to alter the pre-existing nonconforming use at 718 Main Street is approved with a vote of four (4) in favor and one (1) opposed.**

RECORD OF VOTE


The following members of the Zoning Board of Appeals vote to grant a Special Permit subject to the above-stated terms and conditions:

  
  
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FILED WITH THE TOWN CLERK

Filed with the Town Clerk on November 21, 2017.

  
Pamela Powell, Town Clerk

CERTIFICATE OF NO APPEAL

The undersigned, being the Town Clerk of the Town of Bolton, certifies that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Date: \_\_\_\_\_, 2017.

\_\_\_\_\_  
Pamela Powell, Town Clerk

Copy of Special Permit Findings and Decision mailed to:

Abutters

Surrounding Towns

Bolton Boards and Committees

Applicant/Owner

2017 NOV 21 AM 11:03

## **APPENDIX A RECORD DOCUMENTS**

### **Original Application Documents**

1. Application to ZBA;
2. Certified Abutters List from Bolton's Assessor's Office;
3. Narrative with Photographs, Site Plan and GIS Aerials;
4. Email from Stenio Tallarida dated 10/10/17 with Attachment (additional narrative letter).

### **October 30, 2017 Hearing Documents**

1. Email from Stenio Tallarida dated 10/24/17 with Attachment (additional narrative with revised layout of parking area);
2. Email from Hank Amabile of 720 Main Street dated 10/30/17.