



TOWN OF HINGHAM

Board of Appeals

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NOTICE OF DECISION FINDING

IN THE MATTER OF:

Applicant/Owner: Douglas Karo
20 Wompatuck Road
Hingham, MA 02043

Subject Property: 20 Broad Cove Road, Hingham, MA 02043

Deed Reference: Plymouth County Registry of Deeds, Book 57238, Page 245

Plan Reference: Plan set entitled "20 Broad Cove Renovation," prepared by Rosemont Design, Architecture + Interiors, 575 Washington Street, #2C, Canton, MA 02021 dated April 12, 2024 (6 Sheets);

Updated First Floor Plan, plan A-101, prepared by Rosemont Design, Architecture + Interiors, 575 Washington Street, #2C, Canton, MA 02021 dated July 18, 2024 (1 Sheet);

Site Plan Transmittal letter prepared by Civil Engineer, Jeffrey A. Couture of Sitec Engineering & Environmental Consultants, Inc., 769 Plain Street, Unit C, Marshfield, MA 02050 dated July 18, 2024 (1 sheet);

Updated Site Plans, revised through July 11, 2024 in response to Mass DOT Comments and to include building setbacks, prepared by Civil Engineer, Jeffrey A. Couture of Sitec Engineering & Environmental Consultants, Inc., 769 Plain Street, Unit C, Marshfield, MA 02050 (4 Sheets);

Elevation Certificate of 20 Broad Cove Road, prepared by J.K. Holmgren Engineering, 1024 Pearl Street, Brockton, MA 02301 (1 Sheet);

20 Broad Cove Road Project Summary, revised through July 21, 2024, prepared by Rob Headley, Managing Partner for 20 Broad Cove, LLC.

Summary of Proceedings:

This matter came before the Board of Appeals (the “Board”) on the application of Douglas Karo (“the Applicant”) for a Finding under M.G.L. c. 40A, § 6 of the Zoning By-Law (the “By-Law”) and such other relief as necessary, to continue operation of a commercial indoor amusement or recreation place or place of assembly comprised of an indoor golf facility served by 6 golf simulators and associated food and bar service, at 20 Broad Cove, located in Residence District A.

The Board heard the application at a duly advertised and noticed public hearing that opened on Tuesday, May 14, 2024, during a meeting held remotely via Zoom as an alternate means of public access pursuant to Chapter 2 of the Acts of 2023 and all other applicable laws temporarily amending certain provisions of the Open Meeting Law. The Board of Appeals panel consisted of its regular members Robyn S. Maguire, Chair, Paul K. Healey and Jed Ruccio. The Applicant’s representatives, Attorney Bruce A. Issadore, and Robert Headley, Managing Partner of 20 Broad Cove, LLC, were also in attendance. Subsequent sessions of the public hearing were also held on June 10, 2024 and July 24, 2024. At the conclusion of the July 24, 2024 hearing, the Board voted unanimously to grant the requested Finding under M.G.L. c. 40A, § 6 subject to the conditions set forth below.

Throughout the hearing, 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.

Background:

The subject property consists of 57,950 SF of land located on the south side of Broad Cove Road in Residence District A. The lot is improved by a commercial building (ca. 1922) that is conforming in the front and side setbacks (25’ and 15’ required respectively) and is nonconforming in the rear with an 8’ setback (where 15’ is required). The rear of the lot, including a portion of the structure, is located in FEMA flood zone AE (el. 6). The structure, known as the *Bare Cove Ballroom*, has been operated as various types of businesses for more than 100 years. The prior businesses included a dance hall and an auction hall, both of which included food and beverage service for periodic events. These uses fall under Section III-A, Use 4.12 which includes commercial indoor amusement or recreation place or place of assembly. This use is presently prohibited in Residence A, which makes the historic use of the property nonconforming.

The Applicant plans to completely renovate the existing structure, which is in disrepair. The indoor commercial amusement use will include 6 golf simulator bays. The location of the existing commercial kitchen and bar will be swapped within the existing building footprint. Functioning windows will be added along the rear building elevation to provide a water view for visitors to the club. The site improvements include improvements to the existing parking area, improved traffic circulation, and landscaping.

The applicants submitted their Site Plan to the Mass DOT's State Highway Access Permits System (SHAPS) in May of 2024 and Mass DOT provided comments to their Site Plan on July 8, 2024. The most significant change that Mass DOT required to the applicant's original Site Plan, was the removal of the paved shoulder that abuts the Mass Highway layout. Mass DOT is requiring that the applicants install curbing, and replace the paving with grass along the majority of front property line. A proposed cement fence was removed from the plan, and a post and rail fence was added for a short distance at the west end of the property for sight line purposes. The east side of property is proposed to have post and rail fencing along the full length of the applicant's property, with a hedge row behind. Mass DOT is also requiring clear exit and entering arrows and property access in two locations and changes to the surface water flow on the parking lot. The Board's peer review traffic engineer, Vanasse & Associates, has reviewed the plans, as revised, and provided positive feedback to the Board along with proposed conditions which have been incorporated into the Board's decision.

During the hearings, public comment was taken both in support and opposition of the proposed project. At the latter of the two hearings, the Applicant and his team submitted a Project Summary that addressed questions and concerns posed by neighbors of the project, Town Staff, and Board Members. The majority of these concerns were based on noise and alcohol service. The Applicant addressed these by reducing operating hours, and providing updated plans that called out the percentage of business space dedicated to golf, food service, and beverage service. The Applicant and his team also agreed to monitor noise coming from the property's windows and to close them as needed.

Throughout the application process, Town Staff worked with the Applicant, in meetings, via email, and through ongoing conversations, to ensure that they were maintaining the use under § III-A, Use 4.12 of the Zoning By-Law as an Commercial indoor amusement or recreation place of assembly, as it had been used since the 1920s.

Early on, the Applicant presented plans for a patio on the site. He was advised by Staff that there had not been outdoor use on the site to date, and the Applicant subsequently agreed to not include outdoor space in the application. During the July 24, 2024 hearing, the Applicant once again expressed interest in having an outdoor component to their business, although they did not have a proposal or plan for this outdoor use. The Board advised the Applicant that without a plan, they could not consider any outdoor use proposal.

Pursuant to MGL c. 40A, § 6, a pre-existing nonconforming structure or use may be extended or altered, provided that there is a finding by the permit granting authority that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

After extensive review, the Board found that the proposed change, extension and alteration of the pre-existing nonconforming use would not be substantially more detrimental to the neighborhood provided that the use was constructed and operated in accordance with a number

of conditions to mitigate potential negative impacts. The Board made such finding subject to the conditions set forth in this decision.

FINDINGS AND DECISION:

Upon a motion made by Paul K. Healey and seconded by Jed Ruccio, the Board voted unanimously as follows:

That the Board find that, subject to the Applicant's compliance with the following conditions, the proposed extension and alteration of the pre-existing use of the property at 20 Broad Cove Road for indoor commercial recreation under Section III-A,4.12 of the Zoning By-Law, providing for not less than six golf simulators with accessory food and beverage service, will not be substantially more detrimental than the existing nonconforming use to the neighborhood and further, that the improvements to the exterior of the structure and the site will eliminate existing adverse conditions and improve safety in the surrounding neighborhood.

1. The use of the property shall be as set forth in the "20 Broad Cove Road Project Summary", updated from June 10, 2024 Hearing & July 21, 2024, as submitted on July 22, 2024, subject to the following:
 - (a) The applicant may modify aspects of the "Membership" as outlined in the Project Summary provided that other operational aspects of the Project Summary are maintained.
 - (b) The "Hours of Operation" may not be expanded without approval by the Board.
 - (c) The "Occupancy" as set forth in the Project Summary is estimated based on current business plan expectations. In the event that occupancy (including special events) results in parking, circulation, and/or traffic issues affecting public safety as determined by the Building Commissioner and the Hingham Police Department, the applicant shall be required to submit a new occupancy and parking management plan to the Board for its review and approval.
 - (d) Under "Fencing", the "Property Line Fencing" has been superseded by the approved site plan. A new fire hydrant and knox box shall be installed as directed by the Hingham Fire Department.
 - (e) The "Parking Lot Improvements" summary is superseded to the extent shown on the approved site plan. Repair and resurfacing of the parking lot shall be limited to filling of potholes and a layer of asphalt. Any grinding down or other reconstruction of the parking lot shall require a special permit A3 from the Planning Board. In addition:
 - (i) Signs, landscaping and other features located within sight triangle areas of the project driveways shall be designed, installed, and maintained so as

not to exceed 2.5-feet in height. Snow accumulation (windrows) located within sight triangle areas that exceed 3.5-feet in height or that would otherwise inhibit sight lines shall be promptly removed;

- (ii) All signs and pavement markings shall conform to the applicable requirements of the Manual on Uniform Traffic Control Devices (MUTCD); and
 - (iii) The Applicant shall maintain all landscaping and grassed areas installed as a part of the project, including the grassed areas along the site frontage to the extent that access for maintenance purposes is granted by MassDOT.
2. This finding is based on the proposed use of the Property for indoor commercial recreation under Section III-A,4.12 of the Zoning By-Law in the manner set forth in this decision and the representations of the applicant during the public hearing. Food and beverage service shall remain accessory to the primary indoor commercial recreation use. In no event shall this finding be deemed to allow the extension or alteration of the pre-existing non-conforming use for any other use.
 3. There shall be no outdoor use of the property, including food or beverage service. All consumption of food and beverages shall be limited to the interior of the building.
 4. All parking shall be on-site in the striped parking area. No parking for the property shall be permitted on Broad Cove Road (Route 3A) or on the streets of the surrounding residential neighborhoods. In the event that valet parking is utilized to address additional parking demand, no Town-owned parking lots may be utilized without a license from the Town. Applicant shall notify the Hingham Police Department at least two weeks in advance of each special event that will require valet parking and may, if directed by the HPD, be required to provide a police detail for such events.
 5. Notwithstanding the hours of operation permitted herein, the applicant shall not permit any noise disturbance from the property between the hours of 8:00 pm and 8:00 am. This shall include, as necessary, the closure of windows during such hours as necessary to prevent any detrimental noise to the surrounding neighborhood.
 6. All work on the Property shall be completed in accordance with the approved site plan, floor plan, the conditions of this decision, and the representations made during the public hearing.
 7. Prior to the issuance of a building permit, the applicant shall submit an exterior building and site lighting plan to the Building Commissioner and Zoning Administrator for review. Exterior lighting shall conform to the provisions of Section I-I.6.j. of the Zoning By-Law.

8. Prior to the issuance of a certificate of occupancy:
- (a) All work required by MassDOT in the Broad Cove Road/Route 3A right of way shall be completed to MassDOT's satisfaction.

 - (b) The applicant shall submit to the Building Commissioner and Zoning Administrator the proposed signage for the building and site. The signage shall conform to the provisions of Section V-B of the Zoning By-Law and, if required by Section V-B, may be subject to review by the Board.

For the Board of Appeals,



Robyn S. Maguire, Chair
August 7, 2024

This Decision shall not become effective until (i) the Town Clerk has certified on a copy of this decision that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such an appeal has been filed, that it has been dismissed or denied, and that (ii): a copy thereof has been duly recorded in the Plymouth County Registry of Deeds and indexed in the grantor index under the name of the owner of record.