Received at the Office of the $<$ city Clerk


Received by:


Fee:


## CITY OF NORTH ADAMS, MASSACHUSETTS

Zoning Board of Appeals

Date:


1. Name of applicant: Berkshire Hills Development Co, LLC
2. Project address: River and Veazie Street (North Adams Assessors Map 81 as Lots 107, 106, 157, 158, 159, 160, 161 and 104A)
3. Name and address of each attorney, agent or representative (on back).
4. The undersigned applicant is $(r)$ the owner of $(r)$ the holder of a written purchase option on the premises which is the subject of this application (check one).
5. The record title to said premises stands in the names) of: Berkshire Hills Development $\mathrm{Co}_{\mathrm{o}}$ LLC; except Parcel 106 in the name of

David G Carver, Trustee, Scarafoni Associates Nominee Trust; applicant has an agreement to purchase
6. Whose address is: 87 Marshall Street, North Adams MA
7. By a deed duly recorded in the Northern Berkshire Registry of Deeds in: $\qquad$

## A COPY OF THE PROPERTY DEED MUST BE ATTACHED TO THIS APPLICATION FOR THE APPLICATION TO BE PROCESSED.

8. Nature of the special permit (circle one)

a.Hotels, motels, inns, tourist cabins establishments (Section 13) Off-site parking facilities (Section 6) Alteration, reconstruction or extension of a non-conforming use (Section 5) Off-site sign or billboard (Section 7)
e. Extension for removal of sign for terminated business (Section 7)
f. Roof signs (Section 7)
g. Temporary sign extension (Section 7)
h. Sign larger than permitted by right or announcing the name of a subdivision, multi-family housing development or shopping center (Section 7)
i. Veterinary Hospitals (Z-13.[57])
j. Other: Parking Waivers Section 6.9
9. Please attach an accurate site plan indicating the dimensions of the property and the location, size and height of any existing and proposed buildings, and site improvements including parking areas, driveways, landscaping, utilities and any other information which will help the Zoning Board in its consideration of the application. If permit is requested for a sign, also include a drawing of the sign. I understand that a public hearing on this application will not be scheduled until the required plan is submitted.
10. A narrative is required. Please include information relative to signage, lighting, parking spaces, and number of clients/customers anticipated. Please note: ALL REQUIRED INFORMATION MUST BE SUBMITTED BY THE APPLICATION DUE DARE ORTHHEAPPLICATION WILL NOT BE PROCESSED.
Applicant signature:


Phone: 413-458-9601
Received from applicant, sum of \$ $\qquad$ 1 cf Hearing date: $\qquad$

Counsel for the Applicant:
Jeffrey P. Grandchamp
Grandchamp Law Offices, LLC
jeff@grandchampllc.com
413-458-9601

Narrative:
The Applicant, Berkshire Hills Development Co., LLC owns and operates The Porches .
The proposed project involves redeveloping the BHDC Properties for use as a restaurant ("Restaurant"). The proposed plan involves replacing a non-conforming building currently on Lot 159 with a more conforming restaurant building, altering and reconstructing nonconforming parking on Lots 106,157 and 158 so the property can be re-developed and used as a Restaurant. Landscaping and green space will be added along most of the north boundary. (The lots involved in the project, except Lot 159 , are not assigned street numbers as the lots are vacant. For convenience, each lot involved is referenced by its tax lot number. A copy of the relevant portion of the tax map is included in the packet for reference.)

The project constitutes a significant improvement over the vacant lots and existing building, while making efficient use of the site and is an overall improvement on the current conditions.

The Restaurant will add jobs and continue to add vibrancy and promote further economic development in the neighborhood and the City as a whole.

The Property is in the B-2 Zone.
Restaurants are permitted by right in the B-2 Zone.
The Applicant has filed with the Planning Board for site plan approval and will file with the Conservation Commission upon finalization of the plans with the Zoning Board and Planning Board.

No signage is proposed at this time. The Applicant will seek approvals for signs as necessary once designed. Any signage appearing the attached is merely conceptual and no approval of any signage is sought in this application.

Rubbish is 225 sf within foot print of the building. See AP-4.
Screening trees will be arborvitae, not less than 5 feet tall. The Applicant may develop more elaborate and enhanced landscaping and can return to the Board at that time,

Restaurant hours of operation: Planned 5 days a week; hours 5-9 (days and hours subject to seasonal variation); during busy season, lunch 12-3.

The Applicant requests this Board:

1. Grant a special permit for the alteration, reconstruction or extension of a nonconforming building.
2. Grant a Special Permit to allow off street, residential parking on an abutting parcel, $b_{b}$ easement.
3. Grant a special permit for the alteration, reconstruction or extension of a nonconforncing use.
4. Grant parking waivers as requested in detail below.

## 1. Special permit under Section 5 "Nonconforming Buildings:"

The building on Lot 159 ( 275 River Street) is non-conforming as it encroaches into the front yard setback (occupying approximately 525 square feet of front yard); encroaches into the rear yard and fails to comply with $\S 4.15$ (lack of 25 ' setback, plantings).

The Applicant intends to demolish the existing structure and construct a new building to be used as a restaurant. The resulting building will encroach into the front yard setback, occupying only 76 sf. The rear year encroachment will be eliminated, as will the non-compliance with $\S 4.15$.

The remaining front yard encroachment of 76 sf constitutes a reduction of 449 sf in the front yard alone. Plus, the encroachment is entirely roof, no walls or support posts.

Based on the foregoing, the Applicant respectfully requests the Board grant a special permit pursuant to Section 5 of the Zoning Bylaws to allow 76 sf of the Proposed Restaurant to be located in the front yard setback, the effect of which reduces an existing front yard encroachment by 449 sf , eliminates a rear yard encroachment and a buffer nonconformity and as such: (1) the proposed alteration, reconstruction or extension will not be substantially more detrimental to the neighborhood than is the existing nonconforming structures; and (2) issuance of a special permit hereunder does not authorize the violation of any dimensional, parking or other regulations with which the structures were theretofore in conformity.

## 2. Special Permit under Section 6.2

Applicant requests a special permit under Section 6.3 to allow 7 Parking spaces on land it intends to acquire from an abutter Scarafoni Nominee Trust for off street parking use by the Trust.

Scarafoni Nominee Trust owns Lot 106. Presently there are seven parking spaces on Lot 106 which provide off street parking the Trust's residential tenants to the west and northwest of Lot 106 ("Tenant Parking"). The Trust has frontage on Veazie Street further to the north. The Trust will have an easement permitting seven parking on Lot 106 after the transfer.

Granting this Special Permit will allow the Applicant to acquire Lot 106, the effect of which will eliminate and reduce existing non-conformities. Plus, the new parking on lot will be somewhat larger as part will be located on Lot 105 , but there will not be any additional spaces. All spaces will be properly sized pursuant to the Bylaws and delineated with striping. This should improve traffic flow and reduce any congestion in the lot.

Granting this Special Permit is in harmony with the general purpose of intent of the zoning bylaws as the Trust will still have the permanent right by easement to continue to park the same number of cars it currently does, off street in compliance with zoning bylaws.

## 3. Special permit under Section 5 "Nonconforming Use"

The existing parking lot on the Northwest corner of Veazie and River Streets is non-con forming as the existing lot does not comply with $\S 4.15$ (lack of 25 ' setback, plantings).

Lot 106 is currently non-conforming as the paved parking encroaches in both side yards and a portion of the rear yard. The Applicant intents to acquire Lot 106.

As shown on Plans, the Applicant proposes to reduce the number of parking spaces currently on Lots 157 and 158 from 9 in the existing lot to 7 , while moving the lot to the northern boundary of Lots 157 and 158.

As explained above, the Applicant will acquire Lot 106 from the Scarafoni Nominee Trust and reconfigure the parking currently on Lot 106. (The residents of the abutting Scarafoni Nominee Trust currently using the parking on Lot 106 will continue to have the right to park on 106 by virtue of an easement.)

The acquisition of Lot 106 by the Applicant will eliminate the side non-conformities because the Applicant owns the property on both sides $(105,157,158)$. (The Applicant has requested a waiver for the paved portion of the lot in rear yard.)

The reconfigured parking on Lot 106 lot will be somewhat larger as part will be located on Lot 105 , but there will not be any additional spaces. All spaces will be properly sized pursuant to the Bylaws and delineated with striping. This should improve traffic flow and reduce any congestion in the lot.

Acquiring Lot 106 will eliminate the 25 ' buffer under $\S 4.15$ pursuant to $\S 2.6$.
Relocating and reconfiguring the non-conforming parking lots on Lots 106, 157 and 158 reduces the overall nonconforming nature of lots and allow for an improved street scape along River Street without negatively affect that on River Street.

Importantly, the proposed traffic flow for the Restaurant parking will be one direction: entering the lot from Veazie Street and exiting on River Street. This will reduce overall traffic on Veazie Street, including the River - Veazie Street intersection.

Based on the foregoing, the Applicant respectfully requests the Board grant a special permit pursuant to Section 5 of the Zoning Bylaws to reconfigure and relocate two existing nonconforming lots as shown on Plans, the overall effect of which reduces the existing nonconformities, and as such: (1) the proposed alteration, reconstruction or extension will not be substantially more detrimental to the neighborhood than is the existing nonconforming structures; and (2) issuance of a special permit hereunder does not authorize the violation of any
dimensional, parking or other regulations with which the structures were theretofore in conformity.

## 4. Parking Waivers

Berkshire Hills Development requests the following waivers from Strict Compliance of the Off-Street Parking Requirement Pursuant to Section 6.9 of the Zoning Bylaws:

1. To allow 22 parking spaces, including one handicapped space. (§6.4)
2. To permit Porches and the Restaurant to share 9 parking spaces (§6.4).
3. To reduce the setback minimum of 5 feet any wall of a building to the maneuvering aisle to 4 feet. (§6.7.1(11))
4. To allow paved parking within the rear setback of Lot 106 (§6.7.1(14))

Strict compliance with the requirements of Section 6 of the Zoning Bylaws may be waived by the Zoning Board of Appeals when in the judgment of the Board such waiver or waivers are consistent with the general intent and purpose of this ordinance.

### 4.1. 22 Parking Spaces, including one handicapped.

For restaurants, $\S 6.4$ of the zoning bylaws requires one parking space for each 200 square feet of gross floor area.

The proposed Restaurant building has 5400 square feet of gross floor area (Main Level 3470 sf; Basement 1930 sf). Using the $\S 6.4$ formula results in a minimum number of parking spaces of 27 .

This gross area formula should not be applied to this Restaurant because a significant amount of gross floor space is not occupied by employees or guests and, because that square footage does not increase parking demand it should be excluded from the calculation.

On the Main Floor 305 square feet is dedication to a trash enclosure ( 225 sf ) and storage $(80 \mathrm{sf})$.

In the Basement, 1,221 square feet consists of: mechanical room ( 664 sf ); reach in closets (202 sf); storage (walk-in refrigerator, walk-in freezer, liquor storage, audio \& IT server=355 sf)

The total of this unoccupied space is $1,526 \mathrm{sf}$. This existence and use of this $1,526 \mathrm{sf}$ does not contribute to any parking demand and, thus, should not be counted toward the gross square footage for purposes of calculating the parking. This results in 3,874 sf of arguably occupied space (though some of this will, in fact, be used for furnishings, fixtures and equipment). Berkshire Hills Development believes the parking formula should be applied to this 3,874 sf. Doing so results in 20 parking spaces. Berkshire Hills Development is proposing 22 parking spaces.

It worth noting that Berkshire Hills Development expects that a significant number of Restaurant patrons will be pedestrians coming from Porches Inn and the surrounding neighborhood. In addition, take out service (but not drive though) is integral to the Restaurant's operations. North Adams restaurant business has a significant seasonality with Summer and early Fall being the busiest. During those busiest seasons, Berkshire Hills Development expects patrons will take advantage of the weather and walk or bicycle to the Restaurant. Berkshire Hills Development will encourage decreased use of motor vehicles for environmental reasons, and will provide bicycle racks. All this, together with the proximity to MASS MoCA and the downtown, will help promote the "walkability" of North Adams. Collectively, these factors will reduce the number of spaces used, so the reduction of 5 spaces below that required by the formula should not negatively impact the adjacent neighbors or the Restaurant's business.

Granting this waiver is consistent with the general intent of the parking ordinance as achieves the reasonable, anticipated parking needs for the Restaurant.

### 4.2. Shared Parking:

Berkshire Hills Development's proposed Restaurant includes the removal of the existing parking lot at the northwest corner of Veazie and River Streets used primarily by Porches' employees with the attendant loss of 9 Porches parking spaces.

Most of the Porches employees work during the early morning through day. For that reason, parking spaces dedicated for employees are used during the day and empty at night. Evening and overnight Porches employees do not currently use this lot for parking.

The opposite is true for the restaurant. Parking tends to be light during the day and more intensive at night. The result is an empty lot during the morning and day.

If Berkshire Hills Development constructed two separate parking lots, we believe each parking lot would by consistently un- or underutilized at opposite times of the day.

Berkshire Hills Development would like to take advantage of this counter cycle use and requests this Board waive strict compliance with the number of parking spaces required for the Porches operations by allowing the Porches and Restaurant share 9 parking spaces.

Porches management is confident that the reduction in parking spaces to Porches during evenings will not result in a parking shortage at Porches for employees or guests.

Berkshire Hills Development is confident that the shared arrangement will not negatively impact parking for the Restaurant or the adjacent residents.

The sharing of parking allows efficient use of parking and avoids empty parking lots, which are unattractive and waste valuable open space.

Granting this waiver is consistent with the general intent of the parking ordinance as achieves the requisite parking while limiting the overall number of underutilized parking spaces in the City, which is a beneficial outcome.

### 4.3. Minimum setback of building wall from maneuvering aisle:

As shown on the attached plan Berkshire Hills proposes 4 foot rather than a 5-fo ot setback between the Restaurant Building and the access way. The access way is internal and vehicle speed is accordingly reduced.

Four feet is adequate from pedestrian and safety standpoint and the American with Disabilities Act and the Massachusetts corollary requires a minimum of three feet.

Granting this waiver is consistent with the general intent of the parking ordinance as it does not create an unsafe situation for pedestrians or traffic and does not present a risk to the building.

### 4.4. Paved parking within the rear setback of Lot 106

The Applicant has an agreement to acquire Lot 106 from the Scarafoni Nominee Trust. The Trust will continue to have the right to park seven cars for use by the residents of the Trust's property to the rear of Lot 106. Lot 106 is currently non-conforming as the paved parking encroaches in both side yards and a portion of the rear yard. The acquisition of Lot 106 by the Applicant will eliminate the side non-conformities as the Applicant owns the property on both sides.

While eliminating two conformities it will result in increasing the nonconformity in the rear yard. The resulting and continuing non-conformity in the rear yard provide access and egress for tenants and good traffic flow.

Granting this waiver is consistent with the general intent of the parking ordinance as the Zoning Board has given similar waivers it the past.

For the foregoing reasons, Berkshire Hills Development requests it be granted a waiver from the parking requirements of the North Adams Zoning Bylaws to: (1) allow 22 parking spaced (including one handicapped space); (2) permit the Porches and Restaurant to share 9 parking spaces; (3) reduce the setback of the Restaurant Building from the maneuvering aisle from 5 to 4 feet; and (4) permit paved parking within the rear setback of Lot 106.

## Properties

The Applicant, Berkshire Hills Development Co, LLC owns or has rights in the properties and improvements on Veazie and River Streets identified on North Adams Assessors' Map 81 as Lots $107,106,157,158,159,160,161$ and 104A (Deeds Book 1743, Page 932; Book 747, Page 922 (portion only); Book 1070, Page 344; Book 1663, Page 857, Book 1700, Page 877, Book 1700, Page 882) (Collectively the "BHDC Properties").









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## Application

LED pole-top luminaire with asymmetrical flat beam light distribution designed for the illumination of parking areas and roadways. Tool-less entry with hinged door for ease of maintenance. Provided with slip fitter to fit $3^{\prime \prime}$ O.D. poles.

## Materials

Luminaire housing and pole fitter constructed of die-cast marine grade, copper free ( $\leq 0.3 \%$ copper content) A360.0 aluminum alloy
Clear safety glass with anti-reflective coating for increased transmission
Reflector made of pure anodized aluminum
Silicone applied robotically to casting, plasma treated for increased adhesion
High temperature silicone gasket
Mechanically captive stainless steel fasteners
NRTL listed to North American Standards, suitable for wet locations Protection class IP66
Weight: 9.48 lbs .
EPA (Effective projection area): 0.32 sq. ft.

## Electrical

Operating voltage $120-277 \mathrm{VAC}$
Minimurn start temperature $\quad-30^{\circ} \mathrm{C}$
LED module wattage 15.8 W
System wattage 20.0W
Controllability
Color rendering index
dering index Ra>80
Luminaire lumens
2,201 lumens (3000K)
LED service life (L70)
60,000 hours

## LED coior temperature

-4000K - Product number + K4
C 3500K - Product number + K35
C 3000 K - Product number +K 3
-2700K - Product number +K 27
C Amber - Product number + AMB
Wildlife friendly amber LED - Optional
Luminaire is optionally available with a narrow bandwidth, amber LED source ( $585-600 \mathrm{~nm}$ ) approved by the FWC. This light output is suggested for use within close proximity to sea turtle nesting and hatching habitats. Electrical and control information may vary from standard luminaire.

| LED module wattage | 29.4 W (Amber) |
| :--- | :--- |
| System wattage | 34.8 W (Amber) |
| Luminaire lumens | 1.199 lumens (Amber) |

BEGA can supply you with suitable LED replacement modules for up to 20 years after the purchase of LED luminaires - see website for detalls

## Finish

All BEGA standard finishes are matte, textured polyester powder coat with minimum 3 mil thickness.

| Available colors | $\square$ Black (BLK) | White (WHT) |
| :--- | :--- | :--- |
|  | C Bronze (BRZ) | Silver (SLV) |
|  | C CUS: |  |



Pole-top luminaire - Asymmetrical flat beam

|  | LED | A | B | C |
| :--- | :--- | :---: | :---: | :---: |
| 99491 | 15.8 W | 10 | 23 | $173 / 9$ |

Type:
BEGA Product:
Project:
Modified:

Recommended for use with 12' to 18' poles
BEGA 1000 BEGA Way, Carpinteria, CA 93013 (805) 684-0533 info@bega-us.com

## Application

LED twin head pole-top luminaire with asymmetrical light distribution designed for the illumination of parking areas and roadways. Tool-less entry with hinged door for ease of maintenance. Provided with slip fitter to fit $3^{\prime \prime}$ O.D. poles.

## Materials

Luminaire housing and pole fitter constructed of die-cast marine grade, copper free ( $\leq 0.3 \%$ copper content) A360.0 aluminum alloy
Clear safety glass with anti-reflective coating for increased transmission
Reflector made of pure anodized aluminum
Silicone applied robotically to casting, plasma treated for increased adhesion
High temperature silicone gasket
Mechanically captive stainless steel fasteners
NRTL listed to North American Standards, suitable for wet locations
Protection class IP 66
Weight: 19.8 lbs.
EPA (Effective projection area): 0.54 sq . ft.

## Electrical

Operating voltage 120-277VAC
Minimum start temperature
LED module wattage
$-30^{\circ} \mathrm{C}$
System wattage
Controliability
Color rendering index
(2) 31.5 W

Luminaire lumens
74.0W
$0-10 \mathrm{~V}$ dimmable
Ra> 80
9,482 lumens ( 3000 K )
Lifetime at $\mathrm{Ta}=15^{\circ} \mathrm{C}$
$>500,000 \mathrm{~h}$ (L70)
Lifetime at $\mathrm{Ta}=45^{\circ} \mathrm{C}$
$242,000 \mathrm{~h}$ (L70)

## LED color temperature

## 4000K - Product number + K4

3500K - Product number + K35
3000K - Product number + K3
2700K - Product number + K27
BEGA can supply you with suitable LED replacement modules for up to 20 years after the purchase of LED luminaires - see website for details

## Finish

All BEGA standard finishes are matte, textured polyester powder coat with minimum 3 mil thickness.

| Available colors | Black (BLK) | White $(W H T)$ | RAL: |
| :--- | :--- | :--- | :--- |
|  | Bronze (BRZ) | Silver (SLV) | CUS: |



Twin pole-top luminaire - Asymmetrical light distribution

|  | LED | A | B | C |
| :---: | :--- | :---: | :---: | :---: |
| 99529 | (2) 31.5 W | 10 | $23 / 8$ | 32 |

Type:
BEGA Product:
Project:
Modified:

Recommended for use with 25 ' to 35 ' poles
BEGA 1000 BEGA Way, Carpinteria, CA 93013 (805) 684-0533 info@bega-us.com






