



Town of Medway
ZONING BOARD OF APPEALS
155 Village Street, Medway, MA 02053

Eric Arbeene, Chair
Brian White, Vice Chair
Carol Gould, Clerk
Bridgette Kelly, Member
Rori Stumpf, Member

**DECISION
SPECIAL PERMIT
114 D MAIN STREET**

RECEIVED

AUG 10 2017

TOWN CLERK

20 Day Appeal
August 30, 2017

Date Application Filed: June 12, 2017

Applicant(s): Sharon Knight & Daniel Macias (the "Applicants")
Tumble Beans Café & Play
858 Pond Street
Franklin, MA 02038

Location of Property: The Project is located on a parcel of land in Medway with proposed access to the property via frontage on Main Street. The property is located at 114 Main Street (Assessor Parcel No. 40-057), with the facility (tenant) location in the rear of the building, also known as 114 D Main Street

Approval Requested: Special Permit under Section 5.4, Table 1: Schedule of Uses of the Zoning Bylaw for use as a Commercial Indoor Amusement Facility and Accessory Café

Members Participating: Eric Arbeene (Chair), Brian White (Vice Chair), Carol Gould (Clerk), Bridgette Kelly, and Rori Stumpf

Members Voting: Eric Arbeene (Chair), Brian White (Vice Chair), Carol Gould (Clerk), Bridgette Kelly, and Rori Stumpf

Hearing Opened: July 5, 2017

Hearing Closed: August 9, 2017

Date of Decision: August 9, 2017

Decision: Approved with Conditions

I. PROCEDURAL HISTORY

1. On June 12, 2017, the Applicant filed a Special Permit Application, pursuant to G.L. c. 40A, as amended, and the Medway Zoning Bylaw, for use of 114 D Main Street, Medway, Massachusetts, as a Commercial Indoor Amusement Facility, “Tumble Beans Café and Play.”
2. Notice of the public hearing was published in the Milford Daily News on June 21, 2017 and June 28, 2017, and notice sent by mail to all interested parties and posted in Town Hall as required by G.L. c. 40A §11.
3. The public hearing was opened on July 5, 2017 and was continued to August 2, 2017; and August 9, 2017. The Board closed the public hearing on August 9, 2017.
4. The Project is located within the rear of the existing building at 114 Main Street, tenant location 114 D Main Street.
5. The Property is located in the Central Business Zoning District.
6. During the public hearing, the Applicants were also represented by their counsel, Joseph Kupstas and Mike Connors of Remodelwerks, 621 Main Street, Shrewsbury, MA 01545.
7. The Board notified Town departments, boards and committees of this application. The Board received written comments from the Fire Department.
8. A meeting was held on July 11, 2017 with the Fire Department, Police Department, Building Department, Board of Health, and Community and Economic Development Department to discuss safety, construction, and permitting.
9. All documents and exhibits received during the public hearing are contained in the Zoning Board of Appeal’s files and listed in Section V. of this Decision.

II. TESTIMONY

At the July 5, 2017 hearing, the Applicants provided an overview of the proposed use. Ms. Knight stated that the Applicants would like to provide enrichment classes for the community, support for parents, and a place for parents to congregate. The Applicants would focus on self-directed play for children. Ms. Knight explained that there is a climbing structure with tunnels and ball pits, but the Applicants were also focused on imaginative play—the design incorporated a “pretend” grocery store, build area, vets office, as well as a sensory room. The sensory room allow children with special needs a place to calm down with music and an environment that the kids could control if the other spaces were too loud. The Applicants were focusing on the 0 – 7 age range, but they recognized that siblings would most likely be attending as well. The normal

business hours would be 9 am – 5 pm, on the weekdays, and 9 am – 1 pm on the weekends with private events in the afternoons and evenings. The space was about 4,600 sq. ft.

The business was not a chain. The Applicants had a son and had moved to the area less than a year ago—they felt there weren't many opportunities to meet other parents in the area and had decided to start their own business.

The Applicants explained that the plans were schematic and didn't show the full existing space, but there were at least two existing means of egress.

The Applicants were proposing a café with espresso and kid-friendly sandwiches, salads, and other similar food items, but there would not be a full commercial kitchen. Parties would be catered by outside local vendors.

The original schematic plans provided to the Board did not show the maintenance storage areas, but there would be space near the second means of egress, not shown on the plans. There was no office proposed, but party room would double as an office space when needed.

The Applicants' representative, Joseph Kupstas, explained that there would be a code review of the space once the use was permitted and the plans would be reflected to show those changes. There was an old drop ceiling that Remodelwerks had planned to take down, which would require sprinkler reconfiguration. Remodelwerks is accustomed to tenant fit outs, but this would be their first kid-playground fit out. Remodelwerks would work with the Town after permitting for the code review so that someone liable could stand behind the project and the construction would be controlled construction.

The Applicants would be utilizing the existing parking to the rear of the building and in the front of the shopping center and they would be adding signage to direct individuals to the facility and to warn individuals of children.

The Applicants may consider events for older children in the evenings after school hours and potentially hosting events, such as paint nights, as well.

The business would have memberships, however, the membership would not be pay-per-class, membership could attend at any time. There would be three tiers of memberships. There would also be single visit "drop-in" play rates, but there would be no drop-offs of children.

The play areas were designed for multiple age ranges.

Mr. White expressed that the Applicants may wish to speak to the Building Department regarding total occupancy and what number would change the use type to "assembly," which requires more stringent fire codes and also suggested including additional electric outlets for parents to use while they are waiting for their children.

The Board expressed their support for this type of space in Medway for the children.

Ms. Leahy recommended to the Board that the Applicants meet with some Town staff and departments to vet out some of the potential issues prior to issuance of a permit rather than the Applicants needing to come back for a modification to the permit or to find that safety and code issues not being adequately addressed. The Board followed Ms. Leahy's recommendation and continued the hearing in order for the Applicants to hold a meeting with staff.

At the August 2, 2017 hearing, the Applicants provided a summary of the meeting with Town staff from July 11, 2017. Mackenzie Leahy, Community and Economic Development Department explained that the document she provided to the Board also provided a summary of the meeting, and included proposed conditions of approval based on the feedback from that meeting. The Board reviewed the letter with the Applicants, who stated that they would be willing to meet all of the proposed conditions.

III. FINDINGS

In making its findings and reaching the decision described herein, the Board is guided by G.L. c. 40A, as amended, and by the Medway Zoning Bylaw. The Board also considered evidence and testimony presented at the public hearings and comments submitted by Town departments, boards and committees as well as residents placed in the public record during the course of the hearings.

A. Special Permit Decision Criteria

- 1. The proposed site is an appropriate location for the proposed use:*
 - a. The location is targeted for the towns of Medway, Milford, Franklin, Millis, Bellingham, and Holliston and the business would encourage long-term and recurring visits to the Central Business District.
- 2. Adequate and appropriate facilities will be provided for the operation of the proposed use:*
 - a. The Applicants have proposed two (2) accessible restrooms. The Building Department will ultimately review the facilities based on occupancy load.
 - b. The Applicants have provided evidence that there are more than two (2) existing means of egress to satisfy the Building and Fire Departments.
 - c. The existing shopping center at 114 Main Street provides adequate parking spaces for the proposed use.
 - d. The Applicants have proposed to include a café area within their business. The Applicants do not proposed to have a stove or oven, but will have an under-the-counter fridge and storage.

3. *The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment:*
 - a. The proposed use is located at the rear of 114 Main Street, an existing Shopping Center located within the Central Business District. The Board does not anticipate a substantial change to occur at the location.
 - b. The rear (northern) and eastern sides of the building have drive isles and parking areas. Conditions set forth herein should adequately address any concerns for pedestrians entering and exiting the facility.
4. *The proposed use will not cause undue traffic congestion or conflicts in the immediate area:*
 - a. The proposed use is located at the rear of 114 Main Street, an existing shopping center located within the Central Business District. The Board does not anticipate a substantial change to occur at the location.
5. *The proposed use will not be detrimental to the adjoining properties due to lighting, flooding, odors, dust, noise, vibration, refuse materials, or other undesirable visual, site, or operational attributes of the proposed use:*
 - a. The proposed use does not propose any visual, site, or operational attributes that are anticipated to affect any of the adjoining properties. The proposed use and operations are contained within the Building. The Applicants do not propose any outdoor operations.
6. *The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district:*
 - a. The proposed use shall benefit Medway Residents, the surrounding neighborhood, and the Central Business zoning district. The proposed use shall encourage long-term and recurring visits and provide an additional family entertainment facility in Medway.
7. *The proposed use is in harmony with the general purpose and intent of this Zoning Bylaw:*
 - a. The proposed use provides an additional amenity to residents consistent with the intent of the Zoning District, definition of "Commercial Indoor Amusement," and is compatible with other uses in the district.
8. *The proposed use is consistent with the goals of the Medway Master Plan:*
 - a. The Board finds that this criteria is not applicable.

9. *The proposed use will not be detrimental to the public good:*

- a. The proposed use will offer a number of benefits, as addressed previously, and therefore will not be detrimental to the public good.

IV. CONDITIONS OF APPROVAL

Based upon the findings of the Board and testimony and information received into the record during the public hearing process, the Board grants to Sharon Knight and Daniel Macias, dba *Tumble Beans Café & Play*, a Special Permit for use of 114 D Main Street (Parcel ID 40-057) as a Commercial Indoor Amusement Facility with an Accessory Café, subject to the conditions and limitations set forth herein.

1. The Floor Plans, submitted at the time of application, prepared by Remodelwerks and dated 6/9/2017, as well as the floor plan provided at the meeting with Town Staff on July 11, 2017, shall be revised to show the entire facility, including any and all storage closets for equipment and maintenance, doors, windows (if applicable), and all means of egress.
2. Due to change of use and the occupancy of children, a revised Sprinkler and Fire Alarm System Plan shall be submitted by a Registered Sprinkler Engineer, contingent upon review and approval by the Fire Department to ensure compliance with the International and State Fire Codes. No Certificate of Occupancy shall be issued until all Sprinkler Systems and Fire Alarm Systems are compliant.
3. Fuel Load and Flammability testing of the play equipment shall be provided to the Fire Department to ensure compliance with the International and State Fire Codes. No Certificate of Occupancy shall be issued until the Fire Department is satisfied that there is no immediate risk to future occupants and children.
4. Prior to issuance of a Certificate of Occupancy, the Fire Department shall be granted access to the building to prepare fire escape routes.
5. A stove and/ or oven within the Café shall be explicitly prohibited.
6. For additional safety, the Applicants shall work with the property manager to install “*Slow Children*” and/or Speed Limit Signs at the rear (northern) and eastern sides of the existing building.
7. For additional safety, the Applicants shall work with the property manager to install additional dark-sky compliant lighting to the rear (northern) and eastern sides of the existing building.
8. The Applicants shall provide indoor and outdoor surveillance for the facility location, to be reviewed by the Police Department.
9. The Applicants shall provide a check-in and/or monitoring system for building entry, to

be reviewed by the Police Department. Acceptable forms for check-in and/or monitoring system may include, but is not limited to, key card entry, membership card scan at the front desk, or sign in form at the front desk.

10. Children shall not be left without parental or guardian supervision at any time. Child drop-off shall be explicitly prohibited.
11. A minimum of three (3) employees shall be working on-site at all normal business hours.
12. All employees shall be required to complete Cardiopulmonary Resuscitation (CPR) training and allergen certification.
13. It shall be mandatory that all employees are screened through a routine Criminal Offender Record Information (CORI) check.
14. This special permit approval is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the Special Permit that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Board for review as a modification.

Any work or use that deviates from the approved Special Permit or this Decision shall be a violation of the *Medway Zoning Bylaw*, unless the Applicant requests a modification and such approval is provided in writing by the Board.

Any request for a modification shall be reviewed by the Board. Modifications that the Board determines are insubstantial may be reviewed as a discussion at a regularly scheduled Board meeting. Modification that the Board determines are substantial shall require a public hearing.

15. Upon receipt of a written request by the applicant filed at least thirty (30) days prior to the date of expiration, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the Special Permit shall lapse two years from the date of Decision, unless acted on or otherwise specified, and may be reestablished only after a new filing, hearing, and decision.

V. INDEX OF DOCUMENTS

- A. The Special Permit application for the proposed Indoor Commercial Amusement facility include the following plans and information that were provided to the Board at the time the application was filed:

1. Perspective View Angle 1, Perspective View Angle 2, Side View with Measurements, Floor Play View with Measurements, Play Events Highlights Level 1, Play Events Highlights Level 2, Design and Play Equipment Specifications, High Quality Guarantee, Material Specifications (three pages), and

Warranty Repairs & Maintenance of the indoor playground equipment, Design No. 170510001SRKT14R1, prepared by Indoor Playgrounds Int'l

2. Property Survey Plan of 98, 108-114 Main Street, dated May 2016, prepared by Sugrue & Assoc., Inc., 72 Hartford Pike, North Scituate R.I. 02857
3. Medway Shopping Center tenants and store numbers
4. Google Earth Aerial Imagery of Medway Shopping Center, dated 5/26/2017
5. Floor Plans and Elevations (two pages) prepared by Remodelwerks and dated 6/9/2017

B. During the course of the review, the following materials were submitted to the Board by Town Departments/Boards:


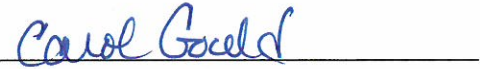
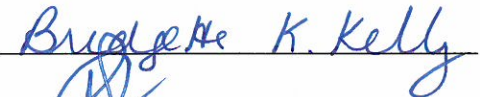
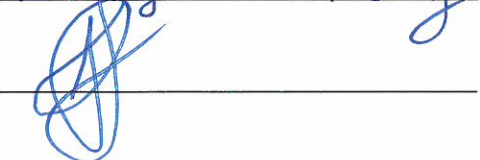
1. Fire Department Comments, provided by Chief Lynch, received July 5, 2017
2. Community & Economic Development Department Comments, provided by Mackenzie Leahy, received July 5, 2017
3. Community & Economic Development Department Comments, provided by Mackenzie Leahy, received August 2, 2017

C. During the course of the review, the following materials were submitted to the Board by the applicant and its representatives:

1. Executive Summary for Tumble Beans Café & Play, received June 14, 2017
2. Existing Conditions Floor, Electrical, Lighting, and Ceiling Plans (two pages), prepared by The Architectural Team and dated March 10, 2017, received July 11, 2017
3. Fire Retardant Testing, prepared by Shanghai Yizhan Industry Co., LTD and dated July 6, 2017, received July 11, 2017

VI. VOTE OF THE BOARD

By a vote of 4 to 0, on a motion made by Rori Stumpf and seconded by Carol Gould, the Zoning Board of Appeals hereby **GRANTS** to the Applicants, a *Special Permit for Commercial Indoor Amusement and Accessory Café* subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Eric Arbeene	Yes	
Carol Gould	Yes	
Bridgette Kelly	Yes	
Rori Stumpf	Yes	

This vote was taken on August 9, 2017.

The Board and the Applicant have complied with all statutory requirements for the issuance of this Special Permit on the terms hereinafter set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided in G.L. c. 40A §15.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty days (20) after the filing of this notice in the Office of the Medway Town Clerk.

In accordance with MGL c. 40A, Section 11, the Special Permit granted by this Decision shall not take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds is recorded in the Norfolk County Registry of Deeds, 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, bearing the certification of the Town Clerk that twenty days have elapsed after the Decision has been filed in the Office of the Town Clerk and no appeal has been filed within said twenty day period or that any duly filed appeal has been dismissed or denied. The fee for recording or registering shall be paid by the Applicant. A copy of the recorded Decision certified by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.