



## 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: Anastasios Kessavis  
Fotini's Restaurant & Bar  
544 Wattaquaddock Hill Road  
Bolton, MA 01740

Premises: 544 Wattaquaddock Hill Road, Bolton, MA 01740  
Bolton Assessor's Map 3.A Parcel 46

Owner: Anastasios Kessavis  
544 Wattaquaddock Hill Road  
Bolton, MA 01740

Deed Reference: Worcester District Registry of Deeds, Book 51746 Page 124

Date Petition filed with Town Clerk of Bolton, MA: May 12, 2105

Type of Application: Special Permit

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

Hearing Date: June 11, 2015

Members Present: Chairman, Gerard Ahearn, Matthew Hurd, Andy Kischitz, Bradley Reed  
Kay Stoner, Associate, Jack Sargent.

Decision: On June 11, 2015 at 7:30 p.m., the Board of Appeals voted unanimously to approve the petition seeking Special Permit.

#### PROCEDURAL HISTORY

1. On May 12, 2015 Anastasios Kessavis (hereinafter, the Applicant ), applied to the Zoning Board of Appeals (ZBA) for a Special Permit to alter and extend a nonconforming structure occupied by Fotini's Restaurant & Bar for the Premises located at 544 Wattaquaddock Hill Road, 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 3.A as Parcel 46 located in the Residential Zoning District.

The application contained the following items:

1. Application to ZBA;
  2. Letter from Anastasios Kessavis;
  3. Certified Abutters List from Bolton's Assessor's Office;
  4. Site Plan entitled "Fotini's Deck" prepared by IXL Cabinets;
  5. GIS Locus Map; and
  6. Photographs of the existing Premises.
2. The Applicant seeks to alter the structure by adding a deck to the front of the building for outdoor seating. The use of the structure as a restaurant is a pre-existing nonconforming use within the Residential Zoning District.
  3. A duly posted public hearing was held on June 11, 2015 at 7:30 p.m. at the Houghton Building at 697 Main Street, Bolton, MA. 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 Board closed the hearing the same evening.

### **CRITERIA FOR SPECIAL PERMIT**

The criteria for the grant of a Special Permit to alter a nonconforming structure 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 nonconforming structures or uses. Section 250-3.C of the Code, provides that generally any increase of no more than 100 percent 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 proposed alteration and use:

1. The Premises is located at 544 Wattaquaddock Hill Road, Bolton, MA 01740, identified on Bolton Assessor's Map 3.A as Parcel 46, and is owned by Anastasios Kessavis, 544 Wattaquaddock Hill Road, MA 01740. The Premises is located in the Residential Zoning District.
2. The Premises at 544 Wattaquaddock Hill Road is approximately 1.3 acres and has approximately 169 linear feet of frontage.
3. The existing use of the structure as a business has operated for many years prior to the adoption of zoning. The use of the structure as a business is a pre-existing nonconforming use in the Residential Zoning District.
4. Although the Premises is located in the Residential Zoning District, other businesses reside in the neighborhood including Bolton Printing Co. at 553 Wattaquaddock Hill Road.

5. The proposed wooden deck will be less than 18 feet by 18 feet as shown on the plans submitted as part of the application. The location of the proposed deck will be in front of the existing structure adjacent to the handicap accessible ramp. The proposed deck will not extend beyond the frontline of the existing building and encroach within the front yard setback.
6. Use of the proposed wooden deck for outdoor seating is consistent with the pre-existing use of the structure as a restaurant.
7. The existing structure has a total of 3,910 square feet of floor area. The proposed wooden deck will be less than 324 square feet. The proposed addition thus meets the criteria for Special Permit noted above.
8. Since the proposed wooden deck will be substantially less than the existing floor area of the current structure, the addition will not be substantially more detrimental to the neighborhood than the existing nonconforming structure;
9. The proposed improvements to the Premises will have no known negative impact on the environment.
10. The proposed improvements will be aesthetically pleasing from Wattaquaddock Hill Road.

### 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 unanimously votes to grant the Applicant's request for a Special Permit as follows:

A Special Permit to allow the Applicant to alter, renovate, and extend the nonconforming structure located on the Premises at 544 Wattaquaddock Hill Road, Bolton, MA to include a new wooden deck on the front of the building. The following condition shall apply:

- 1. The proposed deck shall be 18 feet wide and shall not extend in depth beyond the frontline of the existing building.**

### RECORD OF VOTE

This Special Permit shall lapse twenty four (24) months following the grant thereof (excepting such time required to pursue or await the determination of an appeal referred to in M.G.L. c.40A, Section 17).

Appeals, if any, to this decision must be made pursuant to M.G.L. c.40A, Section 17 and must be filed within twenty (20) days after the date of filing of this decision in the office of the Bolton Town Clerk.

This decision shall not take effect until a copy of this decision bearing the certification of the

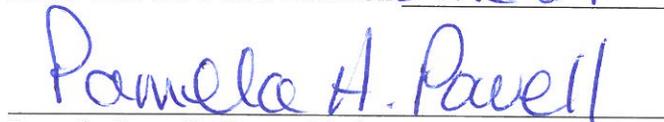
Town Clerk that twenty (20) days have elapsed after this decision has been filed in the office of the Town Clerk, and that no appeal has been filed within said twenty (20) days; or that, if such appeal has been filed, that it has been dismissed or denied. Further, this decision shall not take effect until it is recorded in the Worcester County Registry of Deeds and indexed in the grantor index under the name of the owner record, or is recorded and noted on the owner's certification of title.

The following members of the Zoning Board unanimously voted to grant the subject to the above-stated terms: Chairman, Gerard Ahearn, Matthew Hurd, Andy Kischitz, Bradley Reed, Kay Stoner.

  
Gerard Ahearn, Chairman  
(On behalf of the Zoning Board of Appeals)

**FILED WITH THE TOWN CLERK**

Filed with the Town Clerk on June 24, 2015.

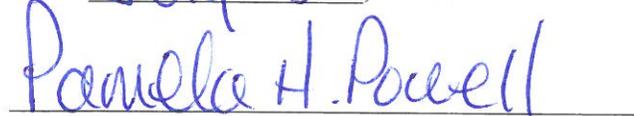
  
Pamela Powell, Town Clerk

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**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: July 15, 2015.

  
Pamela Powell, Town Clerk

Copy of Special Permit Findings and Decision mailed to:  
Abutters  
Surrounding Towns  
Bolton Boards and Committees  
Applicant