



Incorporated 1765

**Town of Charlemont
MASSACHUSETTS**

**TOWN OF CHARLEMONT PLANNING BOARD
NOTICE OF DECISION ON SPECIAL PERMIT**

Date Filed: June 7, 2021

Applicant: Great Outdoors/Christian Carcio
Applicant Address: 78 Main St., Charlemont, MA 01339
Owner: Frank A. & Helen A. Carcio & Christian J. Carcio
Owner Address: PO Box 411, Charlemont, MA 01339
Premises Affected: Great Outdoors/78 Main Street, Charlemont MA 01339

78 Main Street(Upper Lot):
Book #: 5448, **Page #** 292
Map: 19 **Parcel:** 92

Main Street(Lower Lot):
Book # 5449 **Page #:** 242
Map: 19 **Parcel:** 88-1

Application is for: Operation of tube rental, river shuttle and parking service at 78 Main Street, Charlemont.

Public Process:

Application Filed: 5/4/2021
Date of Public Hearing: 5/20/2021 & 5/27/2021
Public Hearing closed: 5/27/2021
Date of Decision: 5/27/2021

Decision and Vote:

The Board VOTED TO GRANT a special permit to Christian Carcio/The Great Outdoors to operate a tube rental, parking and river shuttle service at 78 Main Street, Charlemont.

The members present and voting of the Charlemont Planning Board were as follows:
Robert Nelson, Chair: Yes Gisela Walker: Yes William Harker: Yes
Carlene Hayden: Yes Daniel Miller: Yes

This permit goes with the Property for a period of 2 years.

Public Process:

The Planning Board had informal meetings with the applicant to finalize the application; though the Board is familiar with the location we visited the site prior to the hearing to review the logistics of the operation. Abutters and members of the public alike attended and voiced their concerns – not solely related to this applicant; such as traffic congestion on Main Street, drinking, loitering after hours, trespassing and the need for a better fence, employing enough staff to manage traffic, smoke from fire pit, sanitary facilities, issues with a shared right-of-way (the Planning Board takes no position in this) and the need for in-person safety talks for all who are using the shuttle service. The hearing was continued once.

Project Location/History:

The original special permit for this operation was to expire in May, 2022 and the conditions no longer reflected what was happening on the ground. Time limits to these permits are appropriate given the fluidity of the many challenges this river creates for the town. This means that the operators, the Board, the abutters and other neighboring businesses have had the opportunity to review how these ten years have gone and what if anything needs to change.

Project Description:

This permit operation shall allow parking on their lower lot adjacent to the river for up to 120 cars. People arriving can either rent tubes or bring their own and then get transported to a public river access point in vans or buses. Some cars just park and proceed with a second car on their own to the river. Given the water release schedules agreed upon with the power company, arrival and departure times and traffic flow are fairly predictable and condensed. Customers float in their tubes down river and about three hours later arrive back at their parking lot, drop off the tubes, get their cars and depart. The operation is incidental to but linked to the Great Outdoors store on the same property. The store has its own special permit.

Findings of the Board:

With the COVID-19 pandemic last year and many indoor businesses being closed, there was an even greater influx of river users to Town than usual last year. The resulting traffic congestion of the river, sanitary issues, alcohol consumption and related behavior and filling of the River with beer cans had residents, river abutters, and Town officials alike up in arms. While the Planning Board recognizes that those entering the river on their own cannot be regulated, they nevertheless felt it necessary to address some deficiencies in the current tubing operation's permits and to increase public safety awareness, and therefore asked both tubing operators to apply for new Special Permits.

This specific permit application will again not solve all the problems cited above, but it is an encouraging next step towards a slowly growing awareness of the need for action shared by all river stakeholders. Progress has been made, the State is drafting new regulations including tube rental and shuttle businesses and these have learned in the last ten years that stricter guidelines and compliance are crucial for all involved.

This permit goes with the applicant for two years until May 27, 2023. This time limit is based on the ever-changing saturation of the river, pending new state regulations, cooperation amongst stakeholders and to ensure that the expansion of the business can be handled smoothly by the management.

The criteria for permit extension/revisions thereafter will be whether the applicant can handle the increased parking and processing of customers sufficiently in terms of:

- a) Safety of traffic flow onsite and intersecting with Main Street
- b) Safety education of customers before entering shuttles
- c) Compliance with CMR 323 6.00 changes
- d) Responding to complaints from abutters
- e) Number and type of violations, citations or enforcement warnings issued
- f) Safety record

Therefore, the Charlemont Planning Board VOTED TO APPROVE a Special Permit under Article III, Section 32.3 of the Zoning Bylaws subject to the following conditions, safeguards, and limitations:

Conditions:

Parking

- Parking shall be limited to 120 cars in the lower lot per revised plan and maintained in an orderly fashion.
- The property boundary of that lot shall be clearly marked, on the west side with a colored, clearly visible, tight rope at least 3 feet off the ground with several "Private Property Beyond this Point" signs attached to the ropes.
- All cars shall leave by 7:00 pm and there shall be no loitering or parties of customers afterwards. No overnight parking.
- Those dropping off their car and proceeding with a second car on their own shall be handed an information sheet about river safety.

Traffic Flow

- The entrance and exit of traffic shall be in compliance with Section 35.2 of the Zoning Bylaws.

Safety Procedures

- Children under 8 are not permitted to rent tubes or be shuttled to the river.
- Young people between 8 and 15 must be accompanied by an adult.
- Only one person per tube
- Tube rentals shall include PFDs
- No swimming pool tubes or multiple-person party tubes shall be allowed on the shuttles.
- No alcohol shall be transported in the shuttles.
- The management will provide live river tubing safety education to all customers before they enter the shuttle, independently of whether they rented tubes or brought their own.

- The management will have three employees onsite on weekends and holidays (Friday-Sunday) and other times as needed and as reasonably dictated by the weather, day of the week and river flows.
- Safety concerns are presently reflected in the drafting of the State's regulations (CMR 323.60 – such as one person per tube, no tubes tied together, no children on laps, limit to 200 tubers per tubing business to be put on the river etc.) .The applicant shall inform himself of the latest requirements and comply with these.
- The management will provide customers with printed information and on their website about the State laws that govern the use of the river regarding safety precautions and alcohol restrictions, about the need to respect private land owner rights, keeping litter out of the river and to raise awareness about the risks related to water releases and high water flows.

Sanitary

- There shall be at least two porta-potties on site and the bathroom in the Store shall be available for public use.
- The site shall be maintained in a clean, uncluttered condition
- There shall be a dumpster at the upper end of the parking lot
- Customers will be encouraged to lug out what they lug in
- Any trash left behind shall be collected each day
- The fire pit shall only burn wood and no trash, being mindful of the abutter's outdoor dining area.

Signage

- Signs along the river will be maintained: the flag on the tall Flag Point identifying the take-out as well as the rigid sign down at the river's edge.
- The present large sign identifying the Great Outdoors store and a smaller River Shuttle sign on Main Street shall remain.
- A small sign saying "Lot Full" may be attached to either rigid sign.
- Additional signs include "no alcohol" as well as "lug out what you lug in", "beware of ticks" and "parking for GOD customers only".
- All signs relating to the tubing and shuttle operation shall be removed when the season ends.

Lighting

- There is already one streetlight in the upper parking lot.
- The gazebo and picnic table area has small Christmas lights.
- As none of the operation takes place in the dark, no additional lighting is needed.

Hours of Operation:

- May 15-October 31; Wednesday – Sunday, from 10:00 to 7:00 p.m.

Emergency Response Plan:

- The Great Outdoors shall work in coordination with the town-wide plan currently in the process of being developed
- **The business shall operate in compliance with 323 CMR 6.00 regulations at all times.**

Special Permit Criteria:

In acting upon Special Permits, the Planning Board shall consider the following criteria:

- a.) The degree to which the activity, site plan, and building design are consistent with economic development activities, including tourism, as identified in the Master Plan.

The Board finds that the proposed use creates a downtown business and offers some relief to an overcrowded and insufficient parking infrastructure by shuttling people upriver; it also provides a legal, safe and clearly identified exit from the River. This project would provide 'tubers' with safety and alcohol use education and bring more of them into the downtown Village with an anticipated but impossible to prove economic benefit to the surrounding businesses.

- b.) Capability of and cost to the town to provide municipal services for the proposed use and premise including police, fire, emergency services, and road maintenance and the ability of the existing infrastructure to support the proposed use including but not limited to existing roads and bridges and their conditions.

The Board finds with the applicant that the shuttle service could create some reduction in traffic because river users are shuttled to the river in groups and will require fewer vehicles to get back; also, that the proposed education about safety precautions and alcohol restrictions may reduce the need for emergency services.

- c.) Impact on Town's school or other educational facilities. N/A
- d.) Consequences of sound, light, odor, noise, traffic congestion, or other disturbances for abutting and other properties that may be impacted.

The Board recognizes that the neighborhood will experience additional noise from 120 vehicles and people accessing the parking area during the operating season of this service. The parking lot is fairly out of sight from Main Street and in a remote hayfield with only a few direct abutters.

As this is a day-time operation there will be no additional lights. People reclaiming their vehicles shall not be encouraged to 'hang out' on site, and traffic into and out of the lot will be closely monitored and guided by the owner.

- e.) Environmental impact of the proposal, including the degree to which the proposal results in water, air, noise or light pollution, topographic change, removal of mature trees or other botanical assets, removal of cover vegetation, risk of erosion or siltation, increased storm water runoff from the site, or displacements of natural habitats.

No topographical change is needed, no topsoil will be removed and no additional erosion or run off is anticipated on this flat field. However, parked vehicles will generate some pollution from oil and gasoline drips. However, the Board finds that the 300+ foot setback from the east property line, the seasonal use and the maintenance of the grass and topsoil should be sufficient protection. The Conservation Commission has given its approval for this river frontage use as long as the 200 ft setback from the river bank is maintained.

- f.) Impact on existing traffic conditions and vehicular and pedestrian safety on all roads in town, particularly on intersections with the Mohawk Trail.

The Board is concerned about the entrance and exit of traffic from this lot through the front and onto Main Street/Rte.2. A safe traffic flow design and supervision as described under Conditions addresses those concerns. The place of egress onto Main Street has good visibility in both directions.

- g.) Degree to which the proposal is compatible with the character of the surrounding area and neighborhood.

The Board is aware that this partial use of the hay field as a parking area establishes a distinct change for the five direct abutters; at the same time, it is a hayfield in the middle of the Village and located behind the commercial establishments of Main Street. It is an ideal access lot to the river that provides river users with a structured, legal and supervised way off the river and into the Village.

- h.) Degree to which the proposal preserves scenic views and historic, natural and cultural resources through site design, landscaping and protection of resources.

The Board finds that the impact on the overall scenic view of this part of the Village is minimal, as the parking area is in a low-lying field down hill and behind the buildings on Main Street from where the scenic views are focused more on the mountains. No historic sites in the Historic District are being directly impacted.

- i.) Employment, housing and fiscal consequences to the Town.

The Board finds that aside from the income generated for the owner of the park and shuttle operation, potential increases in tax revenue from this or other businesses to the Town will be minimal.

- j.) Impact on agricultural or forestry operations or the productivity of the land for those uses. There will be a slight loss in the harvesting of hay from that field.

- k.) Capability of the Town or other public or private entities to provide water supplies, sewage treatment, or Stormwater management.

The park and shuttle operation will be linked to the existing Great Outdoors Store which has access to a private water supply water and public sewer. In addition they will provide a portable toilet for their customers.

- l.) Other impacts on the Town, including support of local products and businesses, protection of open space, provision of recreational opportunities for Town residents, and energy conservation.

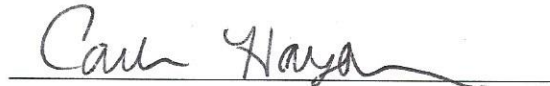
The Great Outdoors is a local business and provides a recreational opportunity.

The Planning Board has determined as measured by the purpose of the by-law, that the benefits of this proposal outweigh any negative effects on the Town.

Additionally, this proposal is subject to all applicable federal, state, and town regulations and is contingent upon approval by other Boards.

The Planning Board hereby certifies that a copy of this decision and all plans referred to in the decision, have been filed with the Planning Board and Town Clerk.

Planning Board Member:



Carlene Hayden

Date Decision filed with Town Clerk:

Town Clerk:

IMPORTANT: Any appeal from the decision of the Board can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (G.L.) as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

I HEREBY CERTIFY THAT NO APPEAL HAS BEEN FILED WITHIN 20 DAYS FROM THE DATE THAT THIS DECISION WAS FILED WITH THE TOWN CLERK.

Town Clerk:

Date:

****NO SPECIAL PERMIT SHALL TAKE EFFECT UNTIL THE APPLICANT RECORDS IT WITH CERTIFICATION OF NO APPEAL AT THE REGISTRY OF DEEDS. ****

REVISED

Upper lot : See insert

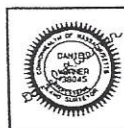
For Registry Use

Symbol	Description
	highway bound found
	iron pipe set
	unmarked point
	utility pole
	edge of river/brook
	edge of travelled way



Approval under the Subdivision Control Law not required
 Charlemont Planning Board
 Dated _____
 Signed _____

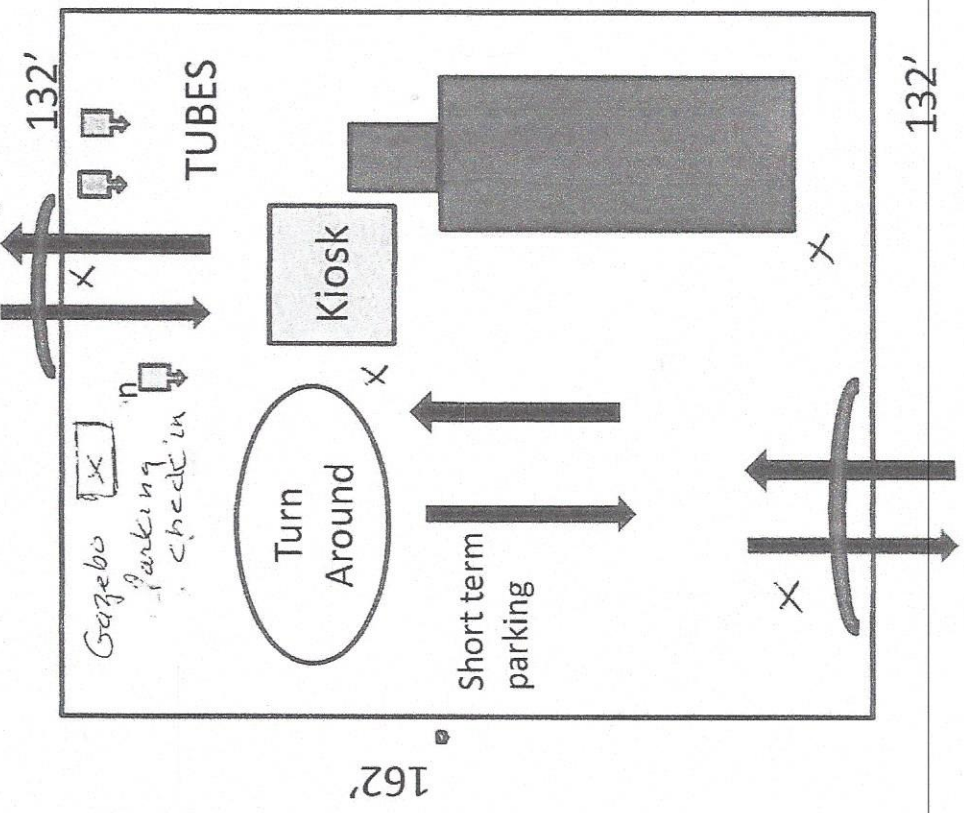
I hereby report that this plan has been prepared in conformity with the rules and regulations of the Registrars of Deeds of the Commonwealth of Massachusetts.
 Donald R. Warner July 8, 2020
 Professional Land Surveyor Date



Plan of Land
 prepared for
 Frank A. & Helen A. Carcio
 located in
 Charlemont, Massachusetts
 Daniel L. Werner, P.L.S., 225 Shelburne Line Road
 Colrain, Massachusetts
 Scale : 1" = 40' Date : July 8, 2020

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Great Outdoors: Upper Lot



162'

162'

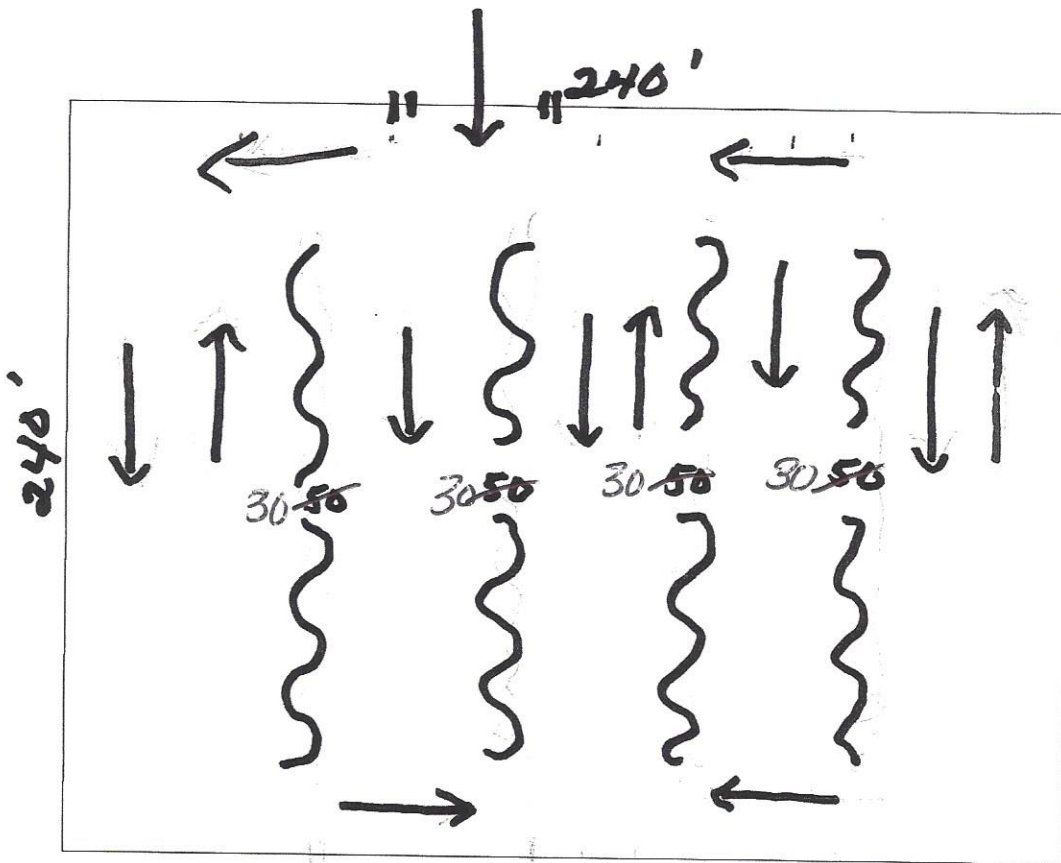
132'

132'

X - signs

Route 2
North

Revised plan for ¹²⁰~~200~~ cars - Lower lot



There will be four rows of ³⁰~~50~~ cars each

Each parking space is approximately 10 x 18 feet

Traffic lanes are 24 feet wide

One way traffic lanes are 12 feet wide

Two line traffic lanes are 18 feet wide