

## PLANNING BOARD

DATE: June 3, 2021

TIME: 7:00 P.M.

PLACE: Zoom Virtual Meeting

FOR: Regular Meeting/Public Hearing

PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jeremy Higa;  
Pedro Pachano

Chris Rembold, Assistant Town Manager/Director of Planning and Development

Ms. Nelson called the meeting to order at 6:00 P.M. She read the opening statement from the agenda. She called for roll call attendance:

Mr. Hankin, present; Mr. Fick, present; Mr. Pachano, present; Mr. Higa, present; Ms. Nelson, present

### **MINUTES: MAY 27, 2021**

Mr. Hankin made a motion to approve the minutes as amended, Mr. Fick seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

### **PUBLIC HEARING: LONG POND NOMINEE TRUST**

The public hearing notice for the special permit application for a rear lot was published for two consecutive weeks in the Berkshire Eagle and posted at least 14 days prior to the hearing in the Town Hall.

Mr. Hankin made a motion to open the public hearing, Mr. Fick seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

The public hearing was opened at 7:03 P.M.

The Board conducted a site visit prior to the meeting.

Attorney Syd Smithers from Cain, Hibbard & Myers was present on behalf of the applicant, James Mercer. Narain Schroeder was present on behalf of Berkshire Natural Resource Council (BNRC).

Mr. Smithers said that BNRC has been talking with Mr. Mercer about obtaining the land on Long Pond Road. Mr. Mercer wants to retain a lot on Round Pond. Mr. Mercer wants to keep approximately 7 acres of land using the rear lot bylaw to create a separate lot then convey the

remaining, approximately 350 acres, to BNRC. A Form A plan will be submitted if the rear lot is approved.

Mr. Smithers asked the Board to reach a conclusion at this meeting so the 20 day appeal period can start. There is a time constraint because of the fiscal year. The plan has to be approved in order to get the money by June 30.

Mr. Smithers said there has been a great deal of discussion about the special permit by the neighbors. He said the neighbors haven't discussed their concerns with us but Attorney Michael Pills has been retained. Mr. Pills sent a memo on behalf of his clients.

Mr. Smithers said the proposed parking area has been relocated to the west side of the outlet stream to accommodate concerns expressed by the neighbors.

Ms. Nelson asked that the discussion stay focused on the special permit for the rear lot. She said she understands that there may need to be some future review of the parking area but it is not necessarily part of tonight's decision.

Mr. Smithers said there are more than 350 acres. The request is to create a 7 acre shore front lot on the west side of Round Pond. He said an extension of that lot will connect to Long Pond Road. The lot will be 5 acres and 2 acres will be the minimum 40' wide extension to connect to Long Pond Road. The 7 acre parcel would be retained by Mr. Mercer.

Mr. Smithers said the BNRC lot will have 150 feet of frontage. Mr. Mercer's lot would have approximately 49.5 feet of frontage on the road. He said this is an opportunity for BNRC to own and open the land to the community. It would be a benefit to create the rear lot to make the land available to the community.

Mr. Smithers said there is no intent to establish any BNRC sponsored boating activity on the pond. He said there are concerns about the safety of traffic flow, parking and loading. He said the parking is proposed for nine spaces in a gravel parking lot. The parking will be west of the stream outlet. The driveway crosses the outlet. The driveway will be improved. The remaining land of BNRC will be protected in perpetuity. There will be no need for utility services to the BNRC property. The property will have hiking trails. The impact on the land will be minimal. There will be no fiscal impact on the Town. The current taxes on the property are approximately \$6200 a year. BNRC is tax exempt but a new home on the 7 acre lot could generate a similar amount of tax.

Mr. Smithers said there is not an issue with a condition requiring BNRC to return to the Board for further discussion of the parking lot.

Mr. Smithers turned the discussion over to Mr. Schroeder from BNRC.

Mr. Schroeder said there will be a gate at the east side of the dam to prevent vehicular traffic. Another gate will be installed at the west end of the parking area to limit vehicular traffic to the balance of the property. He said he would be happy to answer questions.

Mr. Hankin asked how people will access the new lot.

Mr. Smithers said there is no gate to get to the parking lot. The gate will be installed after the parking lot to keep vehicles off the dam.

Ms. Nelson asked that the discussion be kept to the rear lot.

Mr. Hankin asked about co-ownership of the right of way.

Mr. Smithers said we are trying to make peace with the neighbors. He said Mr. Pill has addressed the points in his memo. He said we are trying to accommodate the neighbors to avoid a stumbling block.

Mr. Hankin said the right of way will be reduced by one foot.

Mr. Smithers said no. The abutter's deed restriction says the property abuts a 50 foot right of way. The right of way is actually 49.5 feet.

Mr. Hankin asked if Mr. Mercer has the right to move the right of way.

Mr. Smithers said the abutter is claiming Derelict Fee Statute. He claims to have rights to half of the 49.5 foot right of way.

Ms. Nelson asked what the relevance is. Even if the abutter has a claim to 25 feet there is still enough.

Mr. Rembold said the key question is does the current owner of the 350 acres meet the threshold requirement. He said what is the right of the abutter to the south and how does it impact the rear lot.

Mr. Hankin asked if the right of way could be moved.

Mr. Smithers said it might be preferable to move the right of way to the center of the lot owned by Mr. Mercer.

Mr. Fick asked if the applicant has frontage for the rear lot.

Ms. Nelson said the minimum frontage required is 160 feet, 120 feet for the BNRC lot and 40' for the rear lot. The survey shows there is 200 feet of frontage. The dispute is over 25 feet so there is still 175 feet meeting the minimum frontage.

Mr. Fick said the numbers work.

Ms. Nelson agreed the numbers work. She said we need to determine whether the criteria for the rear lot have been met.

Mr. Pachano said he didn't get the letter from Mr. Pill until today. He asked if the letter should be considered if we haven't been able to get through it. He said it is not clear how to calculate the frontage.

Mr. Rembold shared the screen showing the map of the parcel. He worked through the numbers demonstrating the 160 feet for the large parcel and how the rear lot meets the frontage requirement with 40 feet on the road while providing the requisite frontage at the building site as described in the rear lot bylaw.

There were no other questions from the Board.

Ms. Nelson asked if there were questions from the public.

Michael Pill said he is a lawyer from Northhampton. He said he was retained 2 days ago as his client did not receive the abutter's notification. He questioned whether the hearing should go forward.

Mr. Pill said the plan shows the right of way trespassing on someone else's property. He asked how a half mile long driveway can be approved. He said Mr. Rembold was kind enough to discuss the plan with him.

Mr. Pill said the Board needs to address the driveway issue. Specifically, how emergency vehicles will get down the driveway, should it be moved away from the abutter and the engineering of the driveway.

Ms. Nelson said the memo from Mr. Pill was received late but during the public hearing we have the opportunity for Mr. Pill to present his concerns. She said she would like to focus on the rear lot. She said BNRC would be subject to SPR.

Mr. Pill said if BNRC would be subject to SPR if the proposed use is lawful. He said the bylaw states the only recreational use is municipal not private. He said this needs to be considered. He said we are backed into a corner. If the special permit is issued we may have to make a decision. If the public hearing is continued it would give us an opportunity to talk. He said the applicant will need a written signed legal agreement with at least my client. He said another abutter hasn't been able to retain a lawyer. If the special permit is issued tonight we will be backed into a corner and possibly appeal during the 20 day appeal period.

Mr. Smithers said this is a catastrophic view of a simple matter. He said this is a conservation matter years in the making. There is no intent to impose on the neighbors. The only issue was the location of the parking lot. The idea that this is some kind of private recreational area is absurd in my opinion. He said he thinks the Board can act on the application by requiring a condition for SPR for the parking lot. He said his is happy to have further conversation.

Mr. Pill cited the Derelict Fee Statute saying there is no legal authority for Mr. Schweitzer's land, abutting the Mercer property to the south, to be trespassed on.

Mr. Smithers said if bifurcated frontage would be allowed the driveway could be moved to the center of the lot.

Stuart Schweitzer, 347 Long Pond Road, said this has been an interesting discussion. He said he is the abutter directly to the south. He said he bought his property in 1994 which included the 25 foot right of way under the Derelict Fee Statute. He said if there is a way to move the driveway it would address our concern.

Mr. Schweitzer said he did not receive notice until yesterday. He said he has not been able to retain an attorney because BNRC has relations with many real estate attorneys in Berkshire County. He asked that the discussion be deferred until an agreement can be made.

Ms. Nelson said there is a time constraint with the application.

Mr. Schweitzer said he was aware that the State's funding will only be available to June 30 as it is the end of the fiscal year.

Mr. Smithers clarified that the money from the State is a significant portion of the purchase price. He said there would be a conservation restriction to the Commonwealth.

Ms. Nelson explained that the Board's meeting had been moved up because of the time constraint. She asked how the board would feel about a condition to move the driveway 25 feet.

Mr. Schweitzer said if the driveway is moved to the center our objection will be removed.

Mr. Smithers said Mr. Pill will agree that under the Derelict Fee Statute that Mr. Mercer and his successors maintain the right to use the right of way.

Ms. Nelson said accessible to Mercer and his successors.

Mr. Smithers said yes that is my position.

Ms. Nelson said she is concerned about moving to the mid-point. There is a pole and Long Pond Road curves sharply. She said the sight lines are not good.

Mr. Hankin said easement could be moved 25 feet to the north.

Mr. Smithers said the right of way is 50 feet. We own half but others have the right to pass over it. BNRC is willing to move it if it can be done safely.

Susan Singleton, 341 Long Pond Road, asked what involvement the Great Barrington Fish and Game had with the proposal.

Ms. Nelson said it is not Great Barrington Fish and Game. The State Department of Fish and Wildlife will have a long term easement for boating and dam access. She said as it pertains to any development we would want SPR for comprehensive improvements.

Mr. Rembold agreed saying the Conservation Commission would also need to give approval.

Mr. Schroeder said that BNRC, regardless of particulars, is willing to negotiate with abutters. He said he is looking forward to a solution. He said the parking will be on the west side of the outlet stream. There won't be parking on the east side.

Mr. Pill said he respects Mr. Rembold greatly. He said this is an issue of their own making, what they are asking for. He said he doesn't know of a business agreement where this would be

agreeable. The applicant doesn't have the frontage so the permit can't be granted as a matter of law. He said the lack of discussion and the time line is not a basis for granting.

Mr. Hankin said 80% of the frontage is allowable as long as it can be shown there is the required 150' lot width at the building setback line.

Mr. Rembold said the application is for a rear lot.

Ms. Nelson said we want to make sure there is adequate frontage for the rear lot.

Mr. Rembold said Mr. Pill's contention is if 25 feet is taken from the right of way the remaining frontage for the rear lot would be less than 40 feet, the minimum amount required at the road.

Mr. Higa said the full required width would be at the building setback.

Mr. Hankin said yes.

Ms. Nelson said Mr. Smithers raised the point that Mr. Mercer has the right to pass over the right of way.

Mr. Schweitzer said he appreciates Mr. Schroeder's offer for an agreement but we won't agree tonight. He said we would like the road to be further to the north at least 25 feet off our property owned in fee.

Michael Parsons from Kelly, Granger, Parsons, and Associates was present. He did the survey of the property. He said he hasn't seen the memo so he defers to the lawyers. He said case law says Mr. Schweitzer owns half of the right of way. BNRC still needs 120 feet of real frontage and 40 feet for the rear lot. He said there is enough for both lots to meet the requirements. He said he would suggest to Mr. Schweitzer that the Mercers and BNRC have the right to access the right of way. BNRC will have an easement to use the right of way which will be located within the 40' rear lot access.

Ms. Nelson said the Board had a robust discussion. She asked if the Board was ready to deliberate.

Mr. Fick said the issue of the right of way is not an issue of access. He said we may want to consider parking as a condition to document an agreement both parties can live with.

Ms. Nelson said the parking is a separate issue we are only talking about the rear lot.

Mr. Fick said the condition would be to come back for SPR. He said he doesn't want to assume BNRC will put the parking where it was originally shown.

Ms. Nelson said that would not be a good faith move.

Mr. Higa asked if we need to be in receipt of revised plans before putting a condition on the plans.

Ms. Nelson asked if we can accommodate another meeting.

Mr. Rembold said the Board should not approve the plan if it doesn't meet the minimum condition of the bylaw. He said the evidence submitted is that the right of way is 49.5 feet wide. Subtracting 25 feet for at least the length of Schweitzer's property would be the plan.

Mr. Hankin said if adjusted to 65 feet it would still leave BNRC 135 feet of frontage.

Mr. Rembold said it is not before you right now.

Mr. Parsons said he can have a new plan to the Mr. Rembold by noon tomorrow.

Ms. Nelson said she agreed with Mr. Rembold. She said the survey map should reflect 4.3.

Mr. Hankin suggested that the Board meet on Wednesday June 9 as it would still give time for the 20 day appeal period to expire so the applicant can get the funding.

Mr. Rembold said if the decision is made it can be filed on the 10<sup>th</sup> then the appeal period will expire on the 30<sup>th</sup>.

Ms. Nelson said that is tight.

Mr. Hankin asked if we could decide on a plan that reflects what we agree to.

Mr. Higa said Mr. Rembold advised against that.

Mr. Hankin said he understands but it wouldn't be illegal. He asked Mr. Rembold if it would be illegal to give approval on a survey that reflects our discussion.

Mr. Rembold said it is not illegal.



Ms. Nelson said do we ask for a map that shows the access be 65 feet from Long Pond Road to the west property line of Mr. Schweitzer's property line. She asked if this is clear enough to everyone that it can be accommodated or do we wait until a revised map is provided. She said she would comfortable with the language.

Mr. Rembold suggested requiring a new survey plan be submitted as soon as possible.

Ms. Nelson asked if it would be acceptable for Mr. Parsons to submit the plan tomorrow.

Mr. Rembold said the consideration is when the plan must be submitted and when it is fatal if it is not submitted. The abutters need enough time to appeal the decision. He said the public hearing hasn't been closed. He said it is a benefit to hear from the abutters and the lawyers.

Ms. Nelson asked Mr. Schweitzer for his opinion.

Mr. Schweitzer said he wants to preserve his rights into the right of way if that is respected we are ok.

Mr. Pachano said your property rights contain the easement.

Mr. Schweitzer said Mr. Mercer has the property rights not BNRC and the rest of the land they acquire.

Mr. Pill said there is no deeded easement. Mr. Mercer would have to go to court and sue Mr. Schweitzer. BNRC has no right to put a gate in. Mr. Mercer might but BNRC doesn't. We are still backed into a corner.

Ms. Nelson said we are trying to get the lot configured. She said she is satisfied with the rear lot discussion.

Mr. Pill said Mr. Schweitzer is not represented by counsel. He said he will concede or waive at this point on behalf of his client. He said BNRC should not be in this position. We appreciate being afforded the opportunity speak and appreciate being heard.

Ms. Nelson said she thinks we need to continue the public hearing and get the updated map.

Mr. Rembold said that to do this property the new plan should be submitted and the public hearing should be continued.

Mr. Hankin made a motion to continue the public hearing to Wednesday June 9 at 5:00 P.M., Mr. Pachano seconded.

Roll call vote: Mr. Hankin, aye; Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Mr. Pill thanked the Board. He said the Board is worthy of any judge he has appeared before. He said the Board is very good at what you do, very impressive.

Mr. Schweitzer also thanked the Board members for their thoughtful deliberation. He said he hopes we can reach a resolution to satisfy everyone.

### **SPECIAL PERMIT: 250 LONG POND ROAD**

Ms. Nelson said the Board's role in this special permit review is to provide a recommendation to the Selectboard. The Board will defer review of Site Plan Review until the special permit has been approved. The Board conducted a site visit prior to the meeting.

Mr. Hankin said he would recuse himself from the discussion as he has a long history with both the subject property and the abutters. Mr. Hankin turned off his video and muted himself.

Attorney Susan Smith was present with applicant Ken Alpart. Mr. Alpart was with Ms. Smith at her location.

Ms. Smith said 3.3 of the zoning bylaws allow moderate impact home occupations by special permit. Mr. Alpart proposes to hold 15 events a year at his home at 250 Long Pond Road, located in the R-2 residential district. The property is on 108 acres. The residence sits on a 5.7 acre excluded area. All activities will take place within that excluded area.. There is a garage/barn where the majority of the parking will be during events. There will be handicap access next to the house. People will walk through the house to get to the tent behind the house. Attendees can walk or take a shuttle from the parking area.

Ms. Smith said the permit would be issued for one year after that time the applicant would have to come back for renewal. The permit, if issued, would not be transferable. Ms. Smith said this is not a commercial endeavor. The kitchen will not be used. Caterers will be hired and licensed by the Board of Health. He said there will be separate sanitation facilities brought in. The house will not be used for sanitation needs.

Ms. Smith said only the applicant will be on the property. The event planner will arrange for the outdoor tent and sanitation facilities. She said everything will be removed at the end of the event.

Garbage will be stored in the garage and removed within 24-48 hours. No garbage will be put on the road. She said there won't be a sales room. No articles will be for sale.

Ms. Smith said one abutter has concerns about noise. We will abide by the noise bylaw and ensure that noise will not be in excess of what the ordinance allows.

Ms. Smith said Mr. Alpart is not employing anyone. She said the event planner will organize the events to ensure they work smoothly.

Ms. Smith said parking will be on site. Only one event a year will have no more than 125 people. No more than three events will have 80 people and the remaining eleven events no more than 75 people. She said the idea and concept is for a small intimate venue.

Ms. Smith said a shuttle bus can be provided to reduce traffic on the road. We have spoken to the bus company. The service vehicles will stay on site they will not be coming and going. The events will run Friday to Saturday or Sunday to Monday. The tent will arrive either Wednesday or Thursday and be picked up on Monday. The hours of operation under 3.3.9 are 8 AM-8 PM but we request a waiver until 11 PM.

Ms. Smith said we will comply with everything required by the Board of Health, Planning Board and Selectboard. The bylaw is well drafted to include a one year permit with review after a year.

Mr. Fick said he is confused about the occupation.

Ms. Smith said this is a residence and the use would be ancillary to the residence. She said a precedent has been set by granting a permit for this type of use to a property on Alford Road.

Ms. Nelson said the use is an events venue.

Mr. Fick said it is not a home occupation.

Ms. Nelson said in this case it is because occupancy is required.

Mr. Fick said this is a broad definition of the occupation.

Ms. Nelson said the site visit was helpful. She said we can discuss in an effort to make a recommendation and go through the SPR criteria for discussion.

Mr. Pachano said the noise should be monitored at the property line. He said we need to discuss what system is in place to handle a noise issue.

Ms. Smith said there is a sound meter required by the ordinance.

Mr. Pachano said monitoring has not been done in the past but going forward there should be a system in place.

Ms. Smith agreed.

Ms. Nelson said in the definition of a home occupation the owner is required to be present to be in conformance. We have received comments from abutters about the owner not being present. We understand the special permit is intended to correct past deficiencies.

Mr. Alpart said last year there were several complaints and there was a violation by a guest who set off fireworks. He said there is a care taker and house manager.

Mr. Alpart said we will provide bus transportation and no garbage on the road. An event planner has been hired and I will be present at the events so if there is an issue it will be dealt with immediately. He said there are many issues related to wind. We need to be more diligent with the speakers.

Ms. Nelson said the precedent situation refers to an established owner of a home who was present and there were a limited number of events. She asked if there will be a formal contract to bind people to contracts.

Mr. Alpart said absolutely. He said he has a contract that he would be willing to share.

Ms. Nelson said she appreciates that Mr. Alpart will share the contract. She asked him to provide the contract to Mr. Rembold's office.

Ms. Smith said she would reserve sharing the contract so all the conditions can be included.

Ms. Nelson asked about the hours of operation running from 8 AM-8 PM. The events will run Friday to Monday or Thursday to Sunday with one night going to 11 PM.

Ms. Smith said just one night will go late, usually Saturday.

Ms. Nelson said it is understood that fireworks are prohibited.

Ms. Smith said they are prohibited.

Ms. Nelson said sanitation will be part of the contract.

Ms. Smith said yes.

Ms. Nelson said there will be a total of up to 15 events a year.

Ms. Smith said correct.

Ms. Nelson suggested going through 10.5 SPR.

Ms. Nelson asked about a shuttle service.

Ms. Smith said for larger events a shuttle could pick up at the hotel(s) and drop off at the event. A shuttle will be on the grounds for smaller events to bring people back to their cars.

Ms. Nelson said there will be four large events with an off-site shuttle and eleven smaller events.

Ms. Smith said yes.

Mr. Fick asked if any guests are residing at the house.

Ms. Smith said the wedding party itself will stay at the house.

Ms. Nelson asked if there would be lighting in the tent.

Mr. Alpart said that is correct.

Ms. Nelson finished going through SPR. She said there is not a lot of additional information required for SPR.

Mr. Higa said he has concerns about people walking around the building to enter the tent.

Ms. Nelson asked if a home occupation has to meet accessibility requirements.

Mr. Pachano said technically a home occupation is offices. This is not open to the public so not sure it would have to meet access codes.

Ms. Nelson said under 3.3.5 1 the applicant is required to have the primary residence at the location. She asked Mr. Alpart how he is meeting this standard.

Ms. Smith said the principal residence is the dwelling unit, the primary access to the event space.

Ms. Nelson said the interpretation is that the owner of the property resides there the majority of the time.

Ms. Smith said the bylaw doesn't say it has to be the primary residence. She said she has told her client he has to be at the house when the events are taking place. She said she doesn't know if that is a satisfactory answer but that is my reply.

Mr. Pachano said the person who owns the business has to own the residence.

Ms. Nelson asked what conditions should be suggested.

Mr. Pachano suggested conditioning the number of events allowed after 8 PM.

Ms. Nelson said there is a waiver request for one night of each event to exceed the 8 PM time limit. Other conditions would be to require shuttles for the large events, compliance with the noise ordinance limiting the noise to 20 decibels above the ambient noise level. She said the ambient noise level needs to be established and submitted to Town.

Mr. Pachano asked for a breakdown of the number of events.

Ms. Nelson said there will be 15 events, 11 small events with hours of 8 AM-8 PM for two nights and 8 AM-11 PM one of the nights. One event will have up to 125 people, three events will have up to 80 people and eleven events will have 75 people or less.

Ms. Smith said one event will have greater than 125 people.

Mr. Higa said there should be a cap of 125 people.

Mr. Rembold said the Selectboard will look at the home occupancy standards, the impacts and what impacts can be controlled with conditions.

Ms. Nelson said we can recommend:

- the use of shuttles for any events with more than 75 people
- contract item requiring portable sanitation facilities for all events

--base line noise levels will be provided to the Town for comparison purposes

Mr. Pachano suggested the day for the event to go to 11 PM not be on Sundays.

Mr. Higa asked if the trash removal is part of the application.

Ms. Nelson said she does not see it on the application. We can add that the trash not be on the street and removed within a certain period of time. She said the applicant needs to provide a submittal with the days of the week the events will be held, the hours during which the events will be held, trash removal plan and noise control plan. Ms. Nelson said this is a one year permit with annual renewal an option.

Mr. Fick made a motion to send a positive recommendation to the Selectboard with the conditions discussed, Mr. Pachano seconded.

Roll call vote: Mr. Fick, aye; Mr. Pachano, aye; Mr. Higa, aye; Ms. Nelson, aye

Mr. Rembold said SPR will be continued to the meeting of June 24, 2021.

Ms. Nelson agreed pending Selectboard decision.

Mr. Hankin rejoined the meeting.

#### **CITIZEN's SPEAK TIME:**

Denise Forbes, North Plain Road, said she is not an abutter but she has a lot of concerns (about the 250 Long Pond Road application). She said she didn't realize it was a wedding venue or for three day events. She said we will hear everything that goes on. She said she is not happy about 15 events. She said the Master Plan states that we should have peace and serenity. She said she is concerned about this because in the past there have been fireworks. Just because there is a contract it doesn't mean they will comply. She said there is no enforcement in this Town. The Town doesn't enforce anything. She said there are so many issues; accidents on the road, people driving drunk. She asked if there is a sprinkler system in case of a fire. She asked what safety requirements are in place. She said there are bells and whistles ringing in my head. This is a scary thing.

Susan Segall, Long Pond Road, said she is impressed with the level of expertise on this Board. She said she lives directly across the street from the house. She said it is a little distressing that you made a positive recommendation before hearing how it impacts the abutters. She said she has been in her house for five years and the property (across the street) has been used for a commercial venture all of that time. She said she wouldn't have purchased the property had she

known about the amphitheater effect. She said it is so loud in my house that the TV can't be heard nor can a conversation be held. She said the events should not be allowed to go past 8 PM.

Ms. Segall said she has called the police at least once a month. The fireworks were going over my house during one event. She said it was a harrowing experience. She said the police can't get there fast enough to see or hear what is happening. She said Mr. Alpart does not live there full time. He is running a for profit business in a residential neighborhood. Our rights are violated. She said past events have resulted in people looking for the venue parking in her driveway and coming to my house. Historically Mr. Alpart is not on site. There is no remedy or instant response. She said it is unfair to the neighborhood. There are misrepresentations in the application. Mr. Alpart cannot be taken in good faith. Please listen to the neighbors. All neighbors oppose the proposal as it ruins our homes.

Ms. Nelson said the Board's role is limited. She advised to follow through with the Selectboard.

Ms. Segall said we will fight.

Jan Wojcik said he has an issue with the residence on the application. The Town should not condone the use. This property is a big headache to the Building Inspector. He said this process is a fast pass for the proposal without thinking it through. The applicant does not live here, he is not honest and we don't feel that we have the support of the Town, shame on you.

Kevin Bolan said he sent a long letter for the record. He said the Chair asked for written submittal. He asked that it be part of the record. He said the issues are the occupancy, the hours 24-48 hours; trash removal is not part of the application. He said it is imperative that we have accuracy and precision for what is being reviewed. He said 3.3.5 1 requires the applicant to have the site their primary (principal) residence. The applicant has conceded this is not his primary residence. He said any residence can be turned into an event space.

Ms. Nelson said the Board has been grappling for many years with air B&B's but we receive push back for trying to regulate. This is a challenging issue that we have worked on for a number of years. We are happy to hear fresh ideas.

Trevor Forbes, North Plain Road, said he compliments the Board for its amazing consistency. Time and time again the Board has condoned illegal operations and allows through recommendations. One wonders why you make these bad decisions.

Mr. Bolan said the chair made a helpful comment regarding the ambiguity of the Air B&B regulations. He said this has nothing to do with Air B&B. This is a commercial event space in a



secondary home so this is a completely separate issue. He said it is clear in the code that the event site has to be the principal residence.

Ms. Nelson asked if there were any other comments. There were none. Ms. Nelson adjourned without objection at 10:18 PM.

Respectfully submitted,

*Kimberly L. Shaw*

Kimberly L Shaw  
Planning Board Secretary