

**Charlemont Planning Board  
May 17, 2018 Meeting Minutes**

Members Present: Bill Harker, Co-Chair, Robert Malone, Co-Chair, Carlene Hayden, Gisela Walker, Dan Miller.

Others Present: Jon Schaefer, Jim Scalise, Bill Martin, Dan Girard, Kelly Phillips, Robert Deraway, Bob Nelson, Bill & Marcia Tucci, Earl Bowen, abutters to Berkshire East and members of the public.

Call to Order

Planning Board Co-Chair Robert Malone called the meeting to order at 7:00 p.m.

Item #1: Public Hearing on Petition to Amend April 11, 1988 Special Permit

Malone opened the hearing at 7:00 p.m. and read the public notice. Harker stated that he was recusing himself, as an abutter to the applicants Berkshire East.

Bill Martin, Attorney for Berkshire East explained that the petition is to amend the April 11, 1988 special permit for the Deerfield River Club condominium proposal, which implied that a certain 2 acre parcel (Assessor's Tax Map 17, Parcel 1-1) was to be held as open space by the condominium association. The parcel is owned by the Berkshire East Open Space Trust, of which the condo unit owners are the beneficiaries and of which Roy Schaefer was made sole trustee. The land and taxes were subsequently forgotten and so the parcel was put into tax title. In an effort to avoid foreclosure and public auction, Berkshire East entered into a purchase and sale agreement with the Trust to buy the parcel and pay off the back taxes. In order to clear the title, the parcel needs to be released from any association with the 1988 special permit. Additionally, Berkshire East is asking that a condition of the permit which limited the maximum number of skiers per day to 3,000 be eliminated. Abutter Joe Bergeron asked why the taxes went unpaid for so long and why the parcel wasn't put into tax title sooner. Martin noted that it was likely none of the owners realized who was responsible for the taxes and so they went unpaid. Berkshire East would now like to purchase the property, pay off the taxes and clear up the tax title.

Miller stated that although the (326 unit) condo proposal never happened and has essentially lapsed, he would like a signed document by Berkshire East stating that they acknowledge that this (amendment) does not re-activate the lapsed aspects of the previous special permit. Martin agreed to draft something and email it to Hayden for inclusion with the permit amendment. After discussion, on a motion by Malone and seconded by Hayden, the Board voted unanimously to allow the special permit, dated April 11, 1988 and recorded in Franklin County Registry of Deeds Book 2261, Page 279 to be amended as follows: (a) to delete any expressed or implied requirement that the Condominium own or control the 2 acre parcel of land shown on the December 15, 1988 plan recorded in said Registry of Deeds, Plan Book 74 and Page 30 (Open Space Parcel) and (b) delete the condition that the maximum number of skiers per day at Berkshire East shall be 3,000.

The public hearing was closed at 7:37 p.m.

Item #2: Public Hearing on Request for Special Permit for 25-Site Family Campground

Malone opened the hearing at 7:38 p.m. and read the public notice.

Jim Scalise, Civil Engineer for Berkshire East showed a map of the proposed 3-acre 25-site camping area in front of the existing West Lodge, as well as safari camping in an area of the parking area of Berkshire East. He explained that Berkshire East had already been before the Board of Health to obtain approval and that

they would need to meet Board of Health sanitary and requirements for the amount of space per site. Abutter Patsy Bergeron asked if the bathrooms would be open to the patrons at all times and Scalise replied that they would.

Dan Girard addressed security concerns and handed out the camping rules and registration document all campers would receive. Additionally, these will be provided in an informational kiosk on-site for those arriving after hours. Girard and other staff would be on-call at all times to address any concerns and added that Berkshire East would also be working with local and State police departments to respond to any incidents as needed. A local police officer will also be on site from 8-11 p.m. Friday through Sunday for security, paid for by Berkshire East. Hayden asked if contact numbers could be provided in the brochures, as currently none were listed. Girard said the final document will have these.

Joe and Patsy Bergeron mentioned issues with traffic and speeding on their road (East Hawley Road) by staff and patrons of Berkshire East and would like to see more enforcement of this. Jon Schaefer noted that this would not be tolerated and agreed to add more signage. Other issues such as noise and people eliminating in the river and woods were mentioned, to which Schaefer agreed to attempt to address "respect your neighbor" type signage. Bergeron stated that he doesn't like the idea of the noise, noting he likes his peace and quiet. Schaefer replied that quiet time will be from 8:00 p.m.-6:00 a.m. and will be enforced. He felt that the buildings and trees would also provide a noise buffer for neighbors and added this is a temporary plan and that the long-term plan is to situate the campground up the hill and further away from abutting properties, when the 2 acre parcel is settled.

Next, the Board reviewed each of the Special Permit criteria and impacts of the project. After further discussion, on a motion by Malone and seconded by Miller, the Board voted unanimously to allow the operation of a 25-site family campground at Berkshire East Ski Resort, according to the plans submitted. The Bergeron's voiced their opposition to the proposal. The public hearing was closed at 8:30 p.m.

*Item #3: Kelly Phillips; Appointment to Discuss Special Permit for Café at 90 Main Street*

Kelly Phillips, of Cliff's Smokin' Backyard Barbecue & Catering expressed her interest in taking over the permit for the operation of the café at 90 Main Street. She submitted a letter of intent as well as permission from the property owner, Robert Deraway. Phillips said she had met with the Board of Health to discuss the needed permits and had obtained a copy of the existing special permit and agreed with the conditions. She noted the only change would be the name on the sign and that she would be using her smoker which would be placed on the back side of the building. Hayden mentioned that an outstanding condition of the permit regarding the screening of the dumpsters needed to be met. Deraway agreed to screen the dumpsters before Phillips assumed the operation, which both indicated would be within the next 30 days. It was also mentioned that the parking area on the side, between the café and the Great Outdoors belonged to the Carcio's, and that they wanted to ensure it was understood this was not available to patrons of the café. Phillips said she was aware of this and thanked the Board for their time.

*Item #4: Earl Bowen; Appointment to Request Extension to Cell Tower Permit*

Earl Bowen told the Board that the last extension on his cell tower permit would run out in June and that he would like to request another extension to the cell tower permit granted to New England Investment Holdings Corp (NEIHC) initially in 2008. Co-Chair Malone stated that he was recusing himself from participation in this matter, as he also currently has a cell tower permit on his property. Walker said the Permit Extension Act extended NEIHC's permit twice and the Board then granted him two additional

extensions, but the bylaws state that if a permit is not acted on in two years, it lapses. Additionally, this is a 10 year old permit and things have changed since then, so it is no longer just extending the same permit content and therefore she believes he needs to apply for a new special permit, which should reflect any changes in the industry or to the location or scope that have occurred since the original permit was applied for. Bowen explained that the current lease he has with a cell company was also expiring and he felt they would be hesitant to renew if he didn't have a current permit in place. If he were to re-apply for a new one, he wouldn't have time for a permit to be in place before the lease expired. The Board recognized this concern and also the need for an updated permit. After discussion, Hayden and Harker proposed a 6 month extension to the permit to address Bowen's lease renewal, to which all agreed. On a motion by Harker and seconded by Miller, the Board voted unanimously to grant a six month extension to the cell tower permit held by New England Investment Holdings Corp, until December 12, 2018 at which time a new Special Permit will have to have been put in place. Walker encouraged Mr. Bowen to apply for the new permit in early October to avoid getting into the same predicament.

A copy of the minutes reflecting the vote on the extension shall be provided to Mr. Bowen and will be placed in his file as well.

*Item #5: Bill & Marcia Tucci; Appointment to Discuss Marijuana Moratorium*

Bill explained that he and his wife recently came back to manage his family farm and that they were interested in becoming cannabis cultivators under a cooperative entitled the Farm Bug Coop. They would like to install a 5,000 sf greenhouse where they would grow and cultivate marijuana. The cooperative allows many farmers to cultivate under one license held by the Farm Bug label. However, Bill explained that before the Cooperative can apply for their license they need farms and farmers with a host agreement in place. The marijuana moratorium would slow everything down and they would like to ask the Town to not propose the moratorium or to amend it to a shorter time frame. The Board explained that they have been busy with the current proposed bylaw revisions and have not had time to think about what a marijuana operation or facility could mean with regards to schools, police, security, etc. and the moratorium allows the Board some time to come up with reasonable regulations. The Tucci's respected the Board's concerns regarding time to craft regulations and explained that Buckland, Easthampton and Hardwick already had theirs in place and offered Eric Schwarz, of the Farm Bug to assist with the process. The Board explained that the article is already on the Warrant for Town Meeting, but agreed to consider an amendment on the floor, if allowed by Town Counsel. The Board suggested the Tucci's make their case for this at Town Meeting. The Tucci's thanked the Board for their time.

*Item #6: Board Action & Business*

- Approval of Minutes. The board reviewed the minutes from their 4/12/2018 and 5/3/2018 meetings. On a motion by Walker and seconded by Harker, the Board voted unanimously to approve the minutes, as written.
- The board reviewed mail and correspondence, which consisted of three emails opposing Hawley's request to the Select Board to install a wi-fi tower in the right-of-way on Legate Hill Road. Radiation frequencies and negative health and environmental impacts were cited as a result of studies done on similar towers. The letters were all sent to the Select Board as well, which would be the Board approving or denying the siting of the tower.

*Item #7: Presentation of Proposed Zoning Bylaw Revisions at Town Meeting*

The Board discussed who would be presenting which revisions to the Zoning Bylaws at Town Meeting. Walker will present and discuss the moratorium, Hayden will do the Temporary Occupancy Bylaw and

Malone will do an overview of the rest of the revisions. It was noted that a minor change was made to the temp occupancy, to clarify that it did not include campgrounds or licensed trailer parks/mobile home parks.

Item #7: Board Follow-up Items

1. 176 Main Street. It was discussed that the stockpiled wooden pallets around the house have been removed and the property was cleaned up. Walker reported that the Animal Inspector made a visit to the property and found the animals to all be contained in cages and that the owner was building another coop as well. The inspector felt the condition and number of the animals on the property was reasonable and will make monthly visits to the site.

Adjournment

On a motion by Harker and seconded by Walker, the meeting was adjourned at 9:55 P.M.

Respectfully submitted,  
Carlene Hayden

**Documents viewed in the Planning Board meeting of 5/17/2018**

1. Agenda for meeting of 5/17/2018
2. Special Permit application for Berkshire East-amend special permit
3. Special Permit application for Berkshire East-25-site family campground
4. (2006) Special Permit file for 90 Main Street
5. Letter of Intent/Owner Approval from Kelly Phillips; 5/2018
6. Letter of Request for Special Permit extension from Earl Bowen, New England Investment Holding Corp; 5/17/2018
7. (2008) Special Permit file-New England Investment Holding Corp
8. Minutes from 4/12/2018 & 5/3/2018 meetings
9. Email from Pru Grand, Charlemont resident regarding proposed wi-fi tower on Legate Hill Road; 4/23/2018
10. Email from Anry Mueller, Charlemont resident regarding proposed wi-fi tower on Legate Hill Road; May 14, 2018
11. Email from Leonore Alaniz, Leverett resident regarding proposed wi-fi tower on Legate Hill Road; May 14, 2018
12. Proposed zoning bylaw revisions, including as-of-right renewable energy siting (solar overlay district), Temporary Occupancy Regulations, additions/ revisions to definitions, use table and dimensional schedule and a marijuana moratorium.