

Richmond Planning Board  
Town Hall

PUBLIC HEARING  
March 14, 2022  
Minutes

Members present: Richard Bell, Douglas Bruce, John Hanson (Chairman), Katherine Keenum, Peter Lopez

Also present: John Hamilton, Kerry Hamilton, Ruth Bass, Ann Larkin, Kathy Mason, John Mason, John Keenum, Sandra Kimple, Wendy Laurin, Doug Brown, Roger Manzolini, Bob Youdelman, Jeff Morse, Jen Morse, Matthew Mozian, Ira Grossman, Jami Grossman, Jonathan Silverstein, John Ryan, Claudia Ryan, Laurence D. Cohen, Alan Hanson, Elizabeth Bruggeman, Dylan [illegible], Martine Carroll, Mike Harke, Adam Weinberg, Susan Sabo, Alex Sabo, Joan Chapman Bartlett, Doug Munson, Toddy Munson, Marissa Hatch, Phil Monne, Karen O'Donnell, Lauren Broussal, Chris Grenoble, Verne Tower, Margaret Hensel, Glenn Novak, Sarah Novak, Jenny Hansell

At 6:02 P.M., John Hanson called to order the public hearing on two proposed zoning bylaw amendments, each entitled "Recreational, Educational and Research Use of Open Space and Conservation Land." The first was prepared by three families on Perry's Peak Road and submitted to the Board of Selectmen on January 12, 2022 (see Exhibit 1). The second, identically worded, was submitted to the Selectmen by initiative petition on January 20, 2022 (see also Exhibit 1).

The night's hearing would begin, he said, with a presentation by the people who were submitting the two proposals under consideration. He expected them to be able to answer questions from the Planning Board and members of the audience. Speakers were asked to come to a microphone at the front of the room and address all questions and comments to him as moderator. He would then direct them as necessary to get them answered.

This was the second public hearing on the subject of how zoning should be applied to recreation as a use of land in Richmond, including what restrictions and regulations there should be. The first had been held on February 14, 2022, after which the Planning Board had forwarded to the Board of Selectmen a report on its own proposed bylaw amendment on the recreational use of land in Richmond (see Appendix 1).

The process for a change in zoning must follow exactly the steps and timing prescribed by state law. A proposed change may be sponsored by a town board, by individual residents who would be directly impacted, or by what's called initiative petition, i.e., a petition signed by citizens asking for an amendment. In each case, the Planning Board is charged with holding a public hearing and then reporting to the Selectmen. In that report, the Planning Board must recommend to the voters at Town Meeting whether to approve or disapprove the amendment. Town Meeting was where a change actually took place. The Planning Board, however, does not recommend to the Selectmen whether to place a proposal on the warrant—that decision is up to the Selectmen.

In June 2021, the Board of Appeals overturned a ruling by the Zoning Enforcement Officer. The Planning Board saw that a conflict in interpretation implied a lack of clarity in the town's *Zoning Bylaw*, and so in July it began a months-long process which culminated in the report sent to the Selectmen in February 2022. During five months of those deliberations, members of the three families on Perry's Peak Road attended meetings of the Planning Board and participated in discussions. There was no point in putting something on the warrant if it had no chance of passing, so it was important to try to come up with

language that reflected what the people of Richmond wanted;. From surveys published in Richmond's Open Space and Recreation Plan, we know that more hiking and walking in Richmond was the #1 desire of townspeople for recreation; 90% of respondents said so. We put together something clear and concise that said outdoor recreation was something permitted by right without interference from town government. The folks on Perry's Peak Road thought that our proposal was not restrictive enough, so they took our amendment and added restrictions that they thought were in the public interest. The question now became whether those additional restrictions were what the voters really wanted. This hearing would not review what the proposals had in common with the Board's proposed amendment. Instead, it would focus on what was different.

The amendment proposed by the Perry's Peak Road families and submitted to the Selectmen was also circulated as a petition and submitted separately with its signatures. After tonight's public hearing, the Planning Board must report on each one separately because the methods of submission were different. The language of a bylaw amendment initiated by initiative petition cannot be changed in any way after it is submitted. The Perry's Peak Road families, however, could make changes in their proposal. If they did so, then the Selectmen would have to decide which to put on the warrant. If the families' changes were substantial, then a new proposal would have been created and the Selectmen would have to refer the new version back to the Planning Board to begin the process over again with a new hearing. In that case, there would not be time for their amended proposal to be on the warrant for the May Annual Town Meeting. If the changes were minor, however, then the proposal could move forward.

The Planning Board was required to recommend to the voters whether to vote yes or no on any proposed zoning bylaw change. The hearing tonight would help members decide what to recommend. The Board had not previously discussed the two amendments under consideration because they had not been presented to the Board, in public session, until tonight. He asked that a spokesman for the Perry's Peak Road families come forward to present their proposal.

Mr. Mozian introduced himself as Matt Mozian of the law firm, Campoli, Monteleone & Mozian and said that he represented the Caligari, Morse, and Grossman families. What the hearing had before it was a carbon copy of the Planning Board's amendment as it was prior to any changes made at the February 14th meeting. It looked like the Board had done away with provision for an events concept and not much more, and so his clients' amendment was pretty much tight with what the Board had spent months developing except for one addition: It put forward a new concept, that of public promotion in two definitions and two added clauses. That was the red line between the Board's final proposal and his clients'. In the neighbors' proposal, any use of a property that was promoted or advertised by the owner to the general public by any means or medium would require a special permit from the ZBA. Their intent was to tailor the bylaw amendment to address the cause of congestion on open spaces, which was the promotion of that land as a site of recreation. If land was not publicly promoted, then what is in the Planning Board's amendment applied. If the land *was* promoted to the general public, then a special permit was required. The special permit process would not create a burden on the ZBA, however, because the need for special permits triggered by this bylaw would not arise very often.

Mr. Hanson said that when you say the promotion is by the owner of the land, your amendment does not say that. In fact, as the amendment was written, the land could be promoted by anybody. It was common to see articles in the *Berkshire Eagle* that promoted hiking across Berkshire County, on publicly owned land or land owned by the BNRC (Berkshire Natural Resources Council) or in some cases privately owned. It appeared that promotion could attach itself to someone's land without their permission. When it came time for comment, he asked for attendees to comment on whether they thought this was a reasonable way to treat people's right to use land. Did Mr. Mozian think this was what two-thirds of the people at Town Meeting would want?

Mr. Mozian: We won't know until May.

Mr. Hanson: If you don't feel it is what you want the amendment to say, you have a chance to amend what you submitted. The initiative petition cannot be changed but the neighbors have an opportunity to change theirs.

Mr. Mozian argued that if land was promoted there had to be some relation between the owner and the promoter. No one could just invite people to come to his land without his permission. If someone promoted coming onto his land without his permission, he'd be pretty frustrated.

Mr. Hanson asked, then why not say promoted by the owner or with the approval of the owner?

Mr. Mozian replied that they couldn't cover every situation. This language was an elegant solution to the problem that promotion caused overuse of open space. He reiterated that a promoter could not advertise for the public to use a property without landowner's permission.

Mr. Bruce: Are you saying it is illegal?

Mr. Mozian: I'm saying I have a house, and I have rights, and people can't come onto my land without my permission. It would not be fair.

Mr. Bruce: It might not be fair, but is it illegal?

Mr. Hanson said that it would be simple to add language that it had to be promoted by the landowner or someone who had a relationship to the landowner.

Mr. Bell suggested saving questions until Mr. Mozian had finished his presentation.

Mr. Mozian said that the neighbors' amendment would not create a lot of special-permit traffic because it addressed a very discrete situation. He also said that criteria for a special permit were set out by the Richmond zoning code—such as, that the proposed use should not be detrimental to adjacent uses or the neighborhood and should not create undue traffic or endanger pedestrian safety. These were not arbitrary and he disagreed, he said, with an assertion by the Planning Board in the *Richmond Record* that special permits were not negotiations among neighbors but instead were arbitrary decisions by a governmental body. If a decision of a board was arbitrary, that was a basis for reversal in Superior Court. His clients believed that their amendment struck a balance between what the Planning Board had written and protection for neighbors by the added concept of public promotion.

#### Comments from the public

Mr. Hanson opened the hearing to comments and questions from the audience. He said that speakers would have to go to the microphone and state their question. They should address him and he would direct the question to have it answered. Ms. Keenum asked that they also state their name.

Mr. Weinberg asked how the amendment would affect BNRC in its manufacturing of a lot of materials about their properties. Would the nature of "public promotion" eliminate that option for them?

Ms. Hansell identified herself as from BNRC. She said public promotion often occurs outside the owner's control. The Strava mobile app, for instance, allowed people to upload recommendations for their favorite trails without the owners' having any idea about it. The Becket Quarry had become popular with cliff divers from all over the Eastern Seaboard because of publicity despite the Becket Land Trust's never

having promoted that use. This amendment would affect the Richmond Land Trust, MassAudubon, and BNRC, including sites where the trails are in other towns but the trailhead is in Richmond. She asked how many kinds of land would be affected. Would it affect Bartlett's Orchard, private land, on which there were trails? She also asked how often must an entity get a special? for every use? annually? by event? It could add up to a lot of people coming before the Board of Selectmen for a lot of special permits.

Mr. Hanson pointed out that it was not the Board of Selectmen, but the Zoning Board of Appeals that was designated as the Special Permit Granting Authority in the proposed bylaw. He thought it was worth asking at some point why it was the ZBA and not the Selectmen, but that was a separate question.

Ms. Creare said she was curious about whether the pre-existing properties be grandfathered from this zoning?

Mr. Hanson said he didn't know; this was new territory.

Mr. Silverstein of the law firm Blatman, Bobrowski, Haverty & Silverstein, LLC, said that grandfathering referred to preexisting nonconforming lots. According to the ZBA ruling, the current use of land with trails open to the public was unlawful and so according to the ZBA there could be no grandfathering because this an unlawful use. The BNRC would have a different view, but he wanted to point out that under this amendment the ZBA, which had made the ruling, would now be charged with granting the special permits. He also said that "public promotion" begged the question of whether it was one person's suggestion or a group or the owner. BNRC and MassAudubon are open to the public; that is their purpose. To require a special permit any time people come to land open to the public by a nonprofit is not analogous to Mr. Mozian's example of people being invited onto his personal land.

Mr. Youdelman asked what is this promotion that triggered a special permit? He offered the example of his wife's hiking group: If someone makes a decision, Let's go to a particular trail, is that promotion? What if group changes their plan at the last minute to hike somewhere else, how could they get a permit? If you are going on a hike on what seems to be considered public land and you change the location, it seems unwieldy to have to think about whether a permit is needed to go on land that is intended by the owner for public use.

Ms. Creare asked what was the nature of a special permit. Was it something that happened once or was it something that had to happen for every use?

Mr. Hanson replied that a special permit was triggered by something that was written into zoning, in this case, promotion of the land. Once triggered, the board that is the Special Permit Granting Authority (SPGA) must decide what the requirements are. Until the hearing, it cannot be known what the special permit will entail nor its duration. It can be good a year or more. There was no way of knowing what the requirements would be ahead of the hearing.

Ms. O'Donnell said that she took a lot of walks listed on Strava and listed them. Was she promoting when she did so? She was concerned that this concept of promotion would restrict access to land that a lot of us have contributed to, to land that the public's effort and money has made available for public use. It was unclear what "public promotion" was. Would it require lots of special permits? "Public promotion" is too broad. Her question was, what was "public promotion"? She said that Mr. Hanson had said he wanted to know what the consensus of the room was on the issue. Her answer was that she was in favor of creating more open space. She acknowledged that when she first went to Hollow Fields she thought that BNRC needed to improve signage and management issues but this amendment seems unduly punitive.

Ms. Laurin identified herself as a member of the ZBA and asked why these special permits for events were going to the ZBA instead of the Selectmen as normal? The Selectmen met every two weeks. The ZBA met only irregularly. This would cause a lot of meetings.

Mr. Hanson asked to defer that question until after the discussion of the definition of "public promotion" was complete.

Alex Sabo said that this definition of "public promotion" was very broad. He pointed to newspaper articles and asked whether they were promotion. He thought the amendment was detrimental to the concept of open land and hiking.

Margaret Hensel said there was a lot of confusion about what a special permit was, but she thought the bigger issue was that a nonprofit institution from out of town have come here with our okay and used land without giving the abutters a say in what happened in their neighborhood. She thought that was a dangerous precedent. She had experienced it in her own neighborhood where a nonprofit had an activity and the neighbors didn't have a say; and when they objected, they were demonized. The question was how did the use of open space impact people's life experience? Shouldn't the public have a say? How do you allow for an enormous influx that we've experienced during COVID?

Mr. Hanson said that under the requirements of the law, the neighbors had been heard in the case of Hollow Fields. They made a complaint, the Zoning Enforcement Officer said there had not been a violation, but they appealed and the ZBA had overturned him. That process was one way you had a say. The Planning Board saw that the language must not be clear and then spent months at public meetings trying to work out something, including with the neighbors—trying to work out something clear that the voters could vote on. They had their say, and what we did was not enough to satisfy them and so at this hearing, the Perry's Peak neighbors were presenting their proposal. They had a right to try to get votes to authorize what they wanted. If none of the proposed amendments work for the Town, then we would need to re-visit the issue after Town Meeting. Everyone needed to have their say. We want to end up with something clear that the people want.

Susan Sabo asked how could it be said that townspeople didn't have a voice in this? Townspeople had voted their taxpayers' money and donated through the Richmond Land Trust for the purchase of land at Hollow Fields. Two-thirds of the money for Perry's Peak had come from the town. It was talked about and everyone knew about it and had a voice in it.

Mr. Hamilton asked what precedents might this bylaw set. Could neighbors start putting restrictions on every open space in Richmond? If they lived near the Audubon Society and thought there was too much going on there, could they stop promotion there or set restrictions? He said that from personal experience, he had sympathy with the people on Perry's Peak Road; people were entitled to their privacy. But he wanted to know what this bylaw might open up. He wanted to know what would happen to open space and said that special permits were a poison pill.

Mr. Hanson said zoning bylaws apply to the entire town. He didn't know exactly what effect of this bylaw would have on privately held land. Every owner has the right to keep property private; they can post it and they should be able to. But land changes hands, owners come and go, and posting can change. The Board believed that people should be able to open their land if they wanted to, and that's what its amendment said. We knew there was a lot of open land in Richmond, but we didn't know how much of it would be open to the public. He also pointed out that the promotion regulated by this bylaw is different from promotion of a single event. It was usually an event that drew a lot of people and those were regulated by the General Bylaws, not zoning. An event of a large-ish scale requires a permit from the Selectmen, regardless of what this bylaw says.

Ms. Keenum added that a permit is much simpler to obtain. You just call Town Hall, find out if you need one, and go get it if you do. A special permit requires a public hearing, notice to the abutters and so forth..

Mr. Hanson said that special permits apply only to zoning. Other permits are governed by the General Bylaws.

Ms. Grenoble said that a simple way to decrease congestion is to regulate the size of groups (like some parks do) and the size of parking lot. A restriction on the size of groups would still allow casual hikers.

Mr. Manzolini said that he was speaking for himself and as a Selectman. He said that permits for special events are not a matter of zoning. He read from Chapter X, Section 9, of the General Bylaws, which pertains to "special cultural, educational, or fund raising event, such as but not limited to, art shows, auctions, festivals, bazaars, community picnics, breakfasts, dinners, concerts, dance events, or similar events." These required a permit from the Board of Selectmen. He explained that it had come into effect many years ago because of a proposal for Jacob's Pillow-like dance at the Furnace on private property in a residential area. There had been a lot of controversy. It was something that everybody in town, Berkshire County, New York City, and Boston wanted, but the Selectmen denied permission because it was not desirable for that neighborhood. He said that perhaps they had been negligent in following their own bylaw in not requiring permits for events at Hollow Fields. Hiking on the trails there were an everyday sort of thing; that was different. But maybe events like Moonlight or Butterfly Walks that draw hordes of visitors should be regulated. The annual pie fest draws hundreds of cars and can affect the area where they are held. If people were planning to have a wedding at home, that was one thing; if they were inviting hundreds of people, that was another and they needed a special-events permit. He thought they should coordinate with BNRC and they with us about what constitutes a special event. He added that the Selectmen had not yet decided whether to put the Planning Board's bylaw amendment proposal on the warrant.

Ms. Hansell said that BNRC had had no special events during COVID and because of the dispute going on. But in the past when they did, they had always filed for a special-events permit.

Mr. Monne asked, if he went on Facebook and said to meet up for a hike somewhere, say at Hollow Fields, would you, the Planning Board, require a special permit?

Mr. Hanson said he didn't know. It was a question that needed to be addressed by the neighbors who were proposing this amendment. It says by any means, it's pretty open.

Mr. Monne asked, would it be his responsibility to get the special permit.

Ms. Keenum said, the Board didn't know—the amendment wasn't theirs.

Mr. Bruce said it would be the owner of the land.

Ms. Bartlett asked whether the fact that there was a sign at Hollow Fields constituted public promotion.

Mr. Hanson said that it was hard to say. What he could say about signs was that under current zoning, it was much easier to regulate signs that were actually attached to the land. Signs were permissible because that helped vendors or visitors find the site. Giant billboards or balloons or lights or things like that which were intended to draw attention to the land were not allowed under current zoning. A small sign like the one at Hollow Fields which identified the location of where you were at was permissible because it identified where you were. You could advertise your land for sale. Small signs that are attached to land to

identify what was happening on the land were permissible. This kind of promotion was vastly different because it was on the airwaves or in the newspapers. If something was occurring at the land because it was the nature of the land, then it could be regulated. For example, flood plains in town have been surveyed scientifically and identified. You can know from a map where the flood plains are, and restrictions can be placed on what happens there. It would be difficult to enforce regulations about promoted land because how could the ZEO tell whether land was "promoted" or not? How would you document where promoted land was? There would be no list or table or map to guide the ZEO on whether land was "promoted land."

Mr. Bell quoted the phrase "promoted or advertised, by any means or medium" in the definitions section of the neighbors' proposed bylaw and the initiative petition and said that if every newspaper article or website that gave every open space owned by BNRC was considered promotion, then they would always be involved in special permits according to this amendment as it currently reads. He then addressed Mr. Manzolini and asked, if the Perry's Peak neighbors changed wording tonight and the Planning Board stayed long enough to make a report tomorrow on their revised amendment, would it be in time for the Board of Selectmen to consider it for the warrant? If the Planning Board had to review something in April, that would be too late for this year's warrant.

Mr. Hanson said that if there were substantial changes, the Planning Board would need more time to get it reviewed and back to the Selectmen. There were likely to be two amendment proposals on the warrant—the Planning Board's, which had already been sent, and the initiative petition, which could not be changed. The question was whether there would be a third one if the neighbors wanted to change theirs so that it no longer was identical to the initiative petition. The Board would need something in writing to review. From what had been said here tonight, it sounded like it needed to be changed and if it were changed a lot, it would have to go back to the Selectmen.

Mr. Lopez told of his own experience getting lost at Hollow Fields and ending up on private property on Dublin Road. Better signage was a way to improve matters. He said that he agreed with Mr. Manzolini that Chapter X, Section 6, on special events permits should be clarified and strengthened. But "public promotion" as defined in these amendment proposals was so broad as to be unenforceable. Other towns were probably dealing with similar problems. He asked Mr. Mozian whether other towns used the concept of public promotion in their zoning?

Ms. Mason said she thought it was wonderful that so many people had turned out for the February and March hearings. This was democracy: people talked and exchanged ideas. She thought the town had done a wonderful job of setting aside land to be enjoyed. The Planning Board had come up with a good plan with regard to open space. She thought tonight's amendments were too restrictive and she was sorry for that. She asked why the change from things going through the Planning Board or Board of Selectmen should a requirement for a special permit now go through the ZBA? Why was it becoming so restrictive?

Mr. Weinberg said that the neighbors' amendment was too restrictive. It was unfair to expect a nonprofit to put resources into conserving and opening land and then not promote it. It seemed that these amendments were trying to move the goalposts in the middle of the game. There had not been opposition when the town and the Richmond Land Trust were helping BNRC buy the land. COVID brought a lot of people and he could sympathize with the abutters who thought their privacy was affected. But if the town and its partners hadn't conserved the land at Hollow Fields, then there could be a dozen houses up there. It would seem to him to be a great deal to have a large amount of open space next to his house that he didn't need to pay taxes on. The Perry's Peak neighbors were trying to keep a non-profit from bringing the public to the site, but what was needed was probably signs and fences to reduce impacts to neighbors.

Mr. Mozian thanked everyone for their comments and agreed that it was democracy. He wanted people to think about something besides BNRC. He warned that under the Planning Board's proposal anyone who wanted to promote their property as open to the public could hurt their neighbors. They were trying to give abutters a seat at the table. Promotion to the general public or other means was what caused congestion. He thought that answered the questions about Strava or Facebook; it was promotion to people you didn't know that was the problem. There were issues here and the Planning Board's proposal could cause other issues. Neighbors should have a say in what happens on their neighbors property. In amending the Planning Board's proposal, his clients had acted for themselves but really for everybody else. Every place was going to be having more population, and people who live next to them needed to have a say. Consider the situation in which someone started promoting open space for hiking and people started coming every morning at 7:00 A.M. and the abutter had no say. How many times would you have to call an attorney? Maybe the language of public promotion is too broad, but maybe it needs to be there to give abutters a chance to pick up the zoning code and see how to gain control. He added in reply to Mr. Lopez's earlier question—had anyone else used the concept of "public promotion"?—not to his knowledge.

Mr. Hanson said in response that the Planning Board had taken the abutters into consideration. It had been guided by Massachusetts' Chapter 61 B. Under that law, anyone who has at least 5 acres of land and is willing to open it to the public for recreation can apply for a tax reduction. In recognition of 61B, we have put in a restriction which Mr. Mozian had not spoken about: you cannot open your land unless you have that much acreage. If someone opened land and real problems followed, we could increase the minimum, but we for now we were following state law. It was not as threatening as Mr. Mozian made it sound.

Mr. Hanson then asked whether there were any more questions on this amendment.

Mr. Manzolini asked what happened if a bylaw amendment was not passed.

Mr. Hanson replied that the Planning Board believed that the people of Richmond wanted educational, conservation, and recreational use of open space and that it was necessary to clarify zoning because under the current ZBA ruling, recreation is not a permitted use of land in Richmond. Potentially there are ways to read the bylaw and get around that interpretation, but it was not clear. The proposed bylaw amendments were designed to allow the town to decide what they want. If they wanted restrictions, this was the one to vote for. If they didn't want restrictions, the Planning Board's proposal was the one to vote for. But either way, the Planning Board believed that we could not allow uncertainty on this issue to stand.

Ms. Creare asked what was the process for moving forward.

Mr. Hanson said the if there were no more comments from the public, then the hearing would close and the Board would deliberate on what we should recommend to the voters on these amendments. Those recommendations would be in our report to the Board of Selectmen. The Planning Board had 21 days to send the report to the Selectmen, but we must move faster if the Selectmen are to have time to choose whether to put either of these two amendments on the warrant.

The public hearing was adjourned at 7:43 P.M.

Respectfully submitted,  
Katherine Keenum



Exhibit 1. Proposed Amendment to Town of Richmond Massachusetts Zoning By-Law Dated: January 12, 2022.

Identical wording was submitted on January 20, 2022, by Ira and Jami Grossman, Jeffrey and Jennifer Morse, and Jeffrey and Jennifer Caligari.

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Proposed Amendment to Town of Richmond Massachusetts Zoning By-Law

Dated: January 12, 2022

Add the following new Section to the By-Law as Section 14:

Section 14

Recreational, Educational and Research Use of Open Space and Conservation Land

Purpose: Provide for the recreational, educational and research use of open space and conservation land

Definitions:

Conservation Land

Land permanently restricted to limit residential or commercial development of the land or to limit the number of residential or commercial building lots permitted in any sub-division of the land.

Open Space Residential Land

Land exceeding the minimum lot size for a single family dwelling or two family dwelling, or land not used for a dwelling, or structures accessory to a dwelling, that is preserved or maintained in an open condition, including gardens, fields, pastures, forests, wood lots, orchards, lawns, and other similar uses.

Open Space Agricultural Land

Land used for agricultural, horticulture, or floriculture as a principal or accessory use that is preserved or maintained in an open condition, including, fields, pastures, forests, wood lots, orchards, gardens, and other similar uses.

Open Space and Conservation Recreation

The use of Open Space Residential Land, Open Space Agricultural Land, or Conservation Land, open to the public, for hiking, snow shoeing, backpacking, hunting, fishing, bird watching, photography or other similar recreational activities.

Open Space and Conservation Education and Research

The use of Open Space Residential Land, Open Space Agricultural Land, or Conservation Land, open to the public, that may include guided tours, for the observation and study of wildlife, plants, flora, geology, and other natural features.

Publicly Promoted Open Space and Conservation Recreation

The use of Open Space Residential Land, Open Space Agricultural Land, or Conservation Land, open to the public, for hiking, snow shoeing, backpacking, hunting, fishing, bird watching, photography or other similar recreational activities that is promoted or advertised, by any means or medium, to the general public.

Publicly Promoted Open Space and Conservation Education and Research

The use of Open Space Residential Land, Open Space Agricultural Land, or Conservation Land, open to the public, that may include guided tours, for the observation and study of wildlife, plants, flora, geology, and other natural features that is promoted or advertised, by any means or medium, to the general public.

Recreational Event

The use of Open Space Residential Land, Open Space Agricultural Land, or Conservation Land, open to the public, for group activities promoted by the owner or other organization, to attract public participation.

Parking Lot

The use of land for the construction of a parking lot.

1.0 Parking Lot Requirements for this section

The use of land for a parking lot shall meet the following requirements:

- a) The applicant shall submit an application for site plan approval under Section 6.6 of this By-Law
- b) The application shall include an impact study of expected vehicle traffic, intensity of use, visitors per day and other data relevant to the proper regulation of Parking Lot size and use at the proposed site.

Add the following subsection 18 to By-Law Section 4.8(A) Permitted Principal Uses:

Section 4.8 A. PERMITTED PRINCIPAL USES Continued:	<u>DISTRICTS</u> RA-A RA-CSR COMM
18a) Open Space and Conservation Recreation: The use of land, <b><i>under Section 14</i></b> , for Open Space and Conservation Recreation, provided that no fee is charged, no off-highway motorized vehicles are permitted, and <b><i>recreational events shall require a permit from the Board of Selectmen under Chapter X, Section 9 of the Town By-Laws.</i></b>	Yes <b>Yes</b> <b>Yes</b>
18 b) Open Space and Conservation Education, and Research: The use of land, <b><i>under Section 14</i></b> , for Open Space and Conservation Education and Research, provided that no fee is charged, and no off-highway motorized vehicles are permitted.	Yes <b>Yes</b> <b>Yes</b>
18 c) Publicly Promoted Open Space and Conservation Recreation: The use of land, <b><i>under Section 14</i></b> , for Open Space and Conservation Recreation, provided that no fee is charged, no off-highway motorized vehicles are permitted, and <b><i>recreational events shall require a permit from the Board of Selectmen under Chapter X, Section 9 of the Town By-Laws.</i></b>	SPA <b>SPA</b> <b>SPA</b>
18 d) Publicly Promoted Open Space and Conservation Education, and Research: The use of land, <b><i>under Section 14</i></b> , for Open Space and Conservation Education and Research, provided that no fee is charged, and no off-highway motorized vehicles are permitted.	SPA <b>SPA</b> <b>SPA</b>

Add the following subsection 18 to By-Law Section 4.8(B) Permitted Accessory Uses:

Section 4.8 B. PERMITTED ACCESSORY USES	<u>DISTRICTS</u>		
<u>Continued:</u>	RA-A		
18. Open Space and Conservation Recreation:	Yes	Yes	Yes
a) The use of land, <b><i>under Section 14</i></b> , for Open Space and Conservation Recreation, provided that no fee is charged, no off-highway motorized vehicles are permitted and any <b><i>Open Space Residential Land, that is open to the public, has a minimum total lot area of 5 acres or more.</i></b>			
18 b) Publicly Promoted Open Space and Conservation Recreation:	SPA	SPA	SPA
The use of land, <b><i>under Section 14</i></b> , for Open Space and Conservation Recreation, provided that no fee is charged, no off-highway motorized vehicles are permitted, and <b><i>recreational events shall require a permit from the Board of Selectman under Chapter X, Section 9 of the Town By-Laws.</i></b>			
18 c) The use of Open Space Residential Land, Open Space Agricultural Land, or Conservation Land, <b><i>under Section 14</i></b> , for accessory structures such as temporary shelters, informational bulletin board, parking lot, and restrooms.	SPA	No	No

## Appendix 1: Report to the Selectmen on the Planning Board's Proposed Bylaw Amendment

Planning Board  
Town of Richmond  
1529 State Road  
Richmond, Massachusetts 01254

**Report Regarding Zoning Bylaw Amendment Proposed by the Planning Board  
February 25, 2022**

This report is provided to the Board of Selectmen for Town Meeting in accordance with MGL Ch 40A, sec. 5.

After completing the draft of a proposed zoning amendment that had been deliberated during public meetings held in 2021 (July 12, August 9, September 13, October 18, November 8, and December 13) and 2022 (January 10), the Board advertised for the required Public Hearing in the *Berkshire Eagle*, on Wednesday, January 19, 2022, and again on Wednesday, January 26, 2022.

The amendment provides for the recreational, educational and research use of open space and conservation land. It allows Open Space and Conservation Recreation as a principal and accessory use in all districts by right. It also allows Open Space and Conservation Education, and Research as a principal use in all districts by right.

It deletes Section 4.9 Temporary Moratorium on Medical Marijuana Treatment Centers and Section 4.10 Temporary Moratorium on Marijuana Establishments

On February 14, 2022, the Board convened the Public Hearing and it was concluded that evening. After the hearing, the Board deliberated and makes the following recommendation on its final draft of the proposed Bylaw Amendment.

- The complete amendment warrant is attached to this report.
- The Planning Board recommends that Town Meeting approve this amendment

For the Planning Board  
John Hanson, Chairman

To see if the Town will vote to amend the Zoning Bylaws by adding a new Section 14, Recreational, Educational and Research Use of Open Space and Conservation Land, and revising Section 4.8 A and Section 4.8 B. The Purpose of the Amendment is to provide for the recreational, educational and research use of open space and conservation land.

Also delete Section 4.9 and Section 4.10.

Add the following new Section to the By-Law as Section 14:

Section 14

Recreational, Educational and Research Use of Open Space and Conservation Land

Purpose: Provide for the recreational, educational and research use of open space and conservation land

Definitions:

Conservation Land

Land permanently restricted to limit residential or commercial development of the land or to limit the number of residential or commercial building lots permitted in any sub-division of the land.

Open Space Residential Land

Land exceeding the minimum lot size for a single family dwelling or two family dwelling, or land not used for a dwelling, or structures accessory to a dwelling, that is preserved or maintained in an open condition, including gardens, fields, pastures, forests, wood lots, orchards, lawns, and other similar uses.

Open Space Agricultural Land

Land used for agricultural, horticulture, or floriculture as a principal or accessory use that is preserved or maintained in an open condition, including, fields, pastures, forests, wood lots, orchards, gardens, and other similar uses.

Open Space and Conservation Recreation

The use of Open Space Residential Land, Open Space Agricultural Land, or Conservation Land, open to the public, for hiking, snow shoeing, backpacking, hunting, fishing, bird watching, photography or other similar recreational activities.

Open Space and Conservation Education and Research

The use of Open Space Residential Land, Open Space Agricultural Land, or Conservation Land, open to the public, that may include guided tours, for the observation and study of wildlife, plants, flora, geology, and other natural features.

Parking Lot

The use of land for the construction of a parking lot.

1.0 Parking Lot Requirements for this section

The use of land for a parking lot shall meet the following requirements:

- a) The applicant shall submit an application for site plan approval under Section 6.6 of this By-Law

- b) The application shall include an impact study of expected vehicle traffic, intensity of use, visitors per day and other data relevant to the proper regulation of Parking Lot size and use at the proposed site.

Add the following subsection 17 to By-Law Section 4.8(A) Permitted Principal Uses

Section 4.8 A. PERMITTED PRINCIPAL USES	DISTRICTS		
	RA-A	COMM1	
Continued:	RA-C	SR	COMM2

17a) Open Space and Conservation Recreation: Yes Yes Yes

The use of land, under Section 14, for Open Space and Conservation Recreation, provided that t no fee is charged, and no off-highway motorized vehicles are permitted.

17 b) Open Space and Conservation Education, and Research: Yes Yes Yes

The use of land, under Section 14, for Open Space and Conservation Education and Research, provided that no fee is charged , and no off-highway motorized vehicles are permitted.

Add the following subsection 18 to By-Law Section 4.8(B) Permitted Accessory Uses

Section 4.8 B. PERMITTED ACCESSORY USES	DISTRICTS		
	RA-A	COMM1	
Continued:	RA-C	SR	COMM2

18. Open Space and Conservation Recreation: Yes Yes Yes

- a) The use of land, under Section 14, for Open Space and Conservation Recreation, provided that no fee is charged, no off-highway motorized vehicles are permitted and any Open Space Residential Land, that is open to the public, has a minimum total lot area of 5 acres or more, including adjoining lots.

- b) The use of Open Space Residential Land, Open Space Agricultural Land, or Conservation Land, under Section 14, for accessory structures such as temporary shelters, informational bulletin board, parking lot, and restrooms. Yes No No

**Other Zoning Changes**

**Delete:** The following sections entirely:

Section 4.9 Temporary Moratorium on Medical Marijuana Treatment Centers

#### Section 4.10 Temporary Moratorium on Marijuana Establishments