

BOARD OF SELECTMEN/SEWER COMMISSIONERS MEETING

Thursday October 10, 2019 – 6:00 PM – Richmond Town Hall, 1529 State Road

PRESENT: Mr. Roger Manzolini, Chair; Mr. Alan Hanson, Selectman; Mr. Neal Pilson, Selectman; Ms. Danielle Fillio, Richmond Town Administrator;

ABSENT:

GUEST: Richmond Shores Residents: Mr. Peter Miller; Ms. Leslie Breeding; Ms. Linda Aurswald; Ms. Allison Cole; Mr. Alex Rosenblum; Carol & John Scorpa; Mr. Dan Scorpa; Andy & Linda Kay; Mr. Ken Kelly, Pres. Richmond Pond Assn.; Chris Thomson; Mr. Miles Garfinkel; Ms. Roseanne M. Frieri; Ms. Josephine Miller; Mr. Eric Smith, RVFD; Ms. Josephine Miller, Mr. Thomas Grizey; Mr. Peter Beckwith, Highway Superintendent; Mr. Christian Hanson, Balderdash Cellars

Mr. Manzolini opened the meeting at 6:00 PM.

Dublin Road Culvert Replacement – Vote to work with Tighe & Bond: Mr. Beckwith updated the Board on the contract that was begun three years ago by the previous Highway Superintendent as part of an application for a grant. Mass. D.O.T. and the other awarding authorities were able to award only two grants at that time and then had to wait before they could award five additional grants. The stipulation the Town had with Tighe and Bond was that they would do all the preliminary work necessary to apply for the grant at no charge with the understanding that, if the Town was awarded the grant, they would do the engineering. Mr. Beckwith had been under the impression that all signatures had been obtained and that the engineers were engaged in the project. He found out recently that nothing has been done to begin the work on Dublin Rd.

Mr. Manzolini pointed out that the name of the brook on page 8 of the contract should correctly be Scace Brook and that he did not see a schedule of work or an estimated time to completion. Mr. Beckwith advised that the work must be completed in 18 months, at which time the grant expires and he said that Town Counsel has read and approved the wording of the contract, which cannot be altered very much as it is tied to the grant. The grant is a reimbursement program. When Mr. Beckwith receives bills for the work bring done, he will be able to pay them out of the Reserve Fund created for this purpose and then submit them through the proper channels for reimbursement.

Mr. Pilson asked whether there was any potential that the cost of the project could exceed the \$500,000 of the grant. Mr. Beckwith expressed his doubt that it would and noted that the Town could use Chapter 90 funds to offset any cost overruns.

Mr. Manzolini noted that there were several “excluded services” written into the contract and he asked if they could create an issue for the Town or if the Town would be able to handle dealing them with itself. Mr. Beckwith assured Mr. Manzolini that there should be no problem.

Mr. Beckwith recommended that the Board approve the contract. Mr. Manzolini moved that the Board approve the contract. The motion was seconded by Mr. Pilson and adopted by unanimous consent.

Discussion of Permit Fees for Town Projects: There was a question of whether the Town would waive the permit for the Fire Department building. Mr. Pilson asked whether that had been the custom in the past. Mr. Eric Smith, a member of the Trustees of the Richmond Fire Department, approached the Board with the request to waive the fee because they are a non-profit 501C3 and it would be a cost-saving benefit. Mr. Pilson asked Ms. Fillio to describe what she understands other towns have done in this situation. Ms. Fillio noted that a lot of towns will waive the fees for a town project, but that it is more complicated in this instance as it is a private association that is putting a building up for the Town to store the fire truck. That makes this situation unique.

Several people said they felt that, since the building in question is of benefit to the town, they would not charge the fees. Mr. Pilson asked if there had been another 501C that made a similar request in the recent past – if not, he saw no precedent being set as this kind of issue does not come up often. Ms. Fillio suggested that if the permit fee were to be waived, it should not be on behalf of the requesting body being a 501C, but based on the fact that the organization is helping the town by putting up the cost of a building, which will house the Town’s fire-fighting equipment.

Mr. Pilson said that he would be willing to waive the fee, based on that consideration. Mr. Hanson moved to waive the permit fees for the proposed Fire Department building. Mr. Pilson seconded the motion, which was carried by unanimous consent.

Balderdash – Review of Special Permit and Summer Events: Mr. Manzolini noted that there has been a lot of discussion about the events at Balderdash and the idea was to review all of that at the end of the first summer season. That is what the public is in attendance at this meeting to discuss. Mr. Manzolini noted that the Board has received several letters on the subject, some voicing concerns and most others voicing support for Balderdash. Of the letters noting concerns, most of those seem to revolve around adhering to the permitted hours and the amplification of the music. Among those voicing complaints, there was a general tendency to being willing to support the permits if the rules were strictly adhered to.

Mr. Pilson asked for comments from the floor:

Mr. Miles Garfunkel of Shore Road addressed the Board – See letter attached. In response to Mr. Garfunkel’s inquiry of a scorecard of pro and con letters received by the Board about the Balderdash events, Mr. Manzolini went through the 9 letters received and noted as follows:

One letter in full support

One that expresses high praise for Balderdash

A third letter that is pleased about Balderdash and its activities

A fourth letter in support of Balderdash

A fifth letter expressing general support but with mild reservations

A letter strongly in favor of what's happening

Two letters in opposition to Balderdash and its activities

Ms. Leslie Breeding of Chestnut Road approached the Board to speak about her opposition to Balderdash – See letter attached. Ms. Breeding offered some photographs and recordings in support of her objections to the level of noise and the negative effect on the indigenous wildlife.

Mr. Peter Miller of Shore Rd. spoke about his objection to the noise level from Balderdash. See letter attached.

Mr. Alex Rosenblum of Shore Rd. approached the Board to speak on the subject. In 1992 he and Mrs. Rosenblum bought a second home in the Berkshires with the intent of eventually retiring there, which they recently did. Up to this time, living here has been a wonderful experience. However, the noise they are experiencing from the Balderdash events have interfered with that. Mr. Rosenblum expressed his understanding of the Hanson's desire to create a successful business and the investment in time and money they have made toward that end, but he asked, "At what price?" He felt that the residents of Richmond Shores are the ones paying the price for that success. He recalled an effort many years ago for a developer to create a nine-hole golf course, bar and restaurant in the area. They were turned down due to conservation issues and the feeling at that time that Richmond, a cross between a farming community and a residential community, was not an appropriate location for that kind of business. He also spoke of the attempt by Hilltop Orchards to expand their operation with weddings and musical events, which was not permitted. Mr. Rosenblum reported that he has had assurances that the people attending the next wedding will not be noisy, which he found to be unrealistic.

Ms. Chris Thomson of Cherry Rd on the canal. She noted that she goes out on the Pond every week and she found that she could not hear the music unless she was by the boat ramp, and she couldn't hear it at her house. About sound coming across the water, she said they can hear the sounds of singing and music from the Christian Lake Camp and sounds from Camp Russell when they have the Chili Chowder Festival. She also hears people mowing their lawns, she hears the planes that pass overhead and it's her impression that the Hansons have been very responsive to complaints. She believes that Balderdash Cellars is a wonderful addition to Richmond, and she would like to see an attempt to work together with the Hansons to try to improve the situation.

Allison Cole of Spruce Rd., which she indicated is four blocks away from the Pond. She tolerated the noise until the big wedding in September, when she contacted Mr. Hanson who agreed that the noise was too loud and continued after nine o'clock. The geographic situation at Ms. Cole's house funnels the sounds from Balderdash directly to her back yard as if it was coming from her neighbor's yard. Even without music playing there is a constant hum of sound that makes it impossible for her to be outside. Richmond Shores is no longer what it was in the past.

Ms. Linda Aurswald of Shore Rd. came before the Board to address weddings at Balderdash. She recalled that she used to work for a local National Trust museum in the area that would hold weddings to generate income. Those weddings were held in the early afternoon until 5:00 PM. She remembered one particular high-end wedding where the attendees got out of control and the police departments from several towns were required to restore order. As a result, the residents decided to put an end to the weddings, which now are very few and far between and require very high insurance coverage. She cautioned the Town of Richmond to be aware of issuing a Special Permit for a venue where alcohol will be served as there is a possibility of the Town's incurring liability.

Ms. Jane McCormick spoke to her love of Richmond Pond where she spends a lot of time with her grandchildren. She expressed her understanding of how people who have lived here many years would miss the constant quiet. However, she noted that Richmond is a small town and the extra revenue that Balderdash generates can only help Richmond Pond. She admitted that it would be wonderful if there was some kind of technology that could channel the music and other sounds away from the Pond. She noted that Proprietors' Lodge in Pittsfield has limited their time so that their music concerts end at 7:30 PM. She noted that on occasions when she is at the winery sitting outside, she cannot hear the music being played inside. As to weddings that tend to get out of control, perhaps weddings should be limited to afternoons. She believes that Mr. and Mrs. Hanson are willing to work with the Town and with the Pond residents.

Mr. Ken Kelly, President of the Richmond Pond Assn. provided his observations on Balderdash special events that were part of the Richmond Pond Assn's preliminary evaluation after three of the four scheduled concerts. Those comments are part of the Draft Minutes of that meeting on September 24, 2019 that deal with an evaluation of the impact on the Pond of Balderdash special events and routine operations. At that meeting, Mr. Christian Hanson reported that there were 200 people attending the first concert, 400 or so at the second concert and 500 at the third. The music runs from 5:00 – 7:30 PM or so. This series was intended as a trial and if it does not work out, Balderdash will discontinue it.

A review was scheduled for the next Board of Selectmen meeting on October 10, 2019. It was noted that the concert series is a good fund-raiser for the Pond Assoc. as proceeds from the parking fees in the amount of \$7,000.00 will be sent to the Pond Assn. A spokesman for a group of Shores residents who are opposed to the concerts spoke to the Assn. Balderdash admitted that a recent wedding had gotten out of hand and it would not be allowed to happen again. Mr.

Hanson has been monitoring sound to keep the volume down. Mr. Kelly then added a statement of personal observations, which are appended here.

Ms. Leslie Breeding noted that when Balderdash made their initial application to the Town, they said there would be 100 people and 40 cars. In a subsequent meeting that estimate was expanded to 150 people at most. How does the Town expect Balderdash to control events that have grown to 500 attendees? That number is way above their originally stated estimate. It was pointed out that the number of attendees was stipulated in the Special Permit. Mr. Manzolini deferred the issue to Mr. Christian Hanson, but he did say that he felt that beyond a guess estimate it would not be possible for anyone to anticipate the exact number of people who might attend a special event. There was a discussion of the question that included an observation that the Town does not have a Police Force to enforce a limit on the number of people attending. Issuing tickets to such events or limiting the number of cars that would be permitted to park at the venue could provide a way to limit the number of attendees. It was noted that it has been observed that cars are being parked at the boat ramp and either listening in their cars or walking across the train tracks. Mr. Pilson said that the use of the boat ramp as the overflow parking lot is of concern to the Board as well as observations of people walking across the tracks. Ms. Fillio reported that she has been in touch with the railroad company who has only one person in charge of enforcing crossing railroad tracks in four states. He advised Ms. Fillio that there is nothing they can do to help enforcement of the prohibition to cross the tracks, nor do they have any intention of coming out here to put up "No Trespassing" signs. They suggested that if the Town or the individual property owners wanted to put up signs they could do so on their own property – 12 feet from the tracks on either side. Mr. Hanson has put a "Do Not Cross the Tracks" sign on his property. Because The Town received funding from the State, the State owns the roadway that goes along the tracks, not the Town. Mr. Pete Beckwith and Ms. Fillio thought that some very large logs could be positioned to block the pathway, and act as a deterrent.

Mr. Andrew Miller asked whether in order to run a special event, the Selectmen would have to approve and if the guidelines that are set forth in the permit are exceeded, would the Board then not approve a special event? Mr. Manzolini said yes that could be how it would work for future events. Mr. Pilson pointed out that the purpose of this meeting is to review the summer activities which were permitted by separate special permits that contain limitations. That review is happening at this meeting where we are hearing the response of the community and shortly the response of the owner.

Mr. Alex Rosenblum said that he had a problem with the direction he sees the meeting heading as he doesn't expect that the sound of the music will be lower if attendance is limited to 100 people. Mr. Manzolini assured Mr. Rosenblum that those are two distinct issues and that the purpose of this meeting is to provide input for the Board so that they can assess what can be approved for future events. He felt that the tenor of the position of the residents of Richmond Shores had been made clear and he would like to give Mr. Christian Hanson an opportunity to

speak. Mr. Manzolini expressed his appreciation for the civility everyone has shown at this meeting.

Mr. Christian Hanson, owner of Balderdash Cellars, took the floor to describe what is happening and focus specifically on noise as that seems to be the biggest issue. There are four activities at Balderdash: (1) Normal Operations – 4:00 - 8:00 PM on Friday evenings, 1:00 – 5:00 PM on Saturdays and Sundays. There is music generally on Friday evenings from 5:00 – 8:00 PM inside and on Saturdays 2:00 – 5:00 PM inside. They have learned that speakers do not work outside during normal Tasting Room hours and, in the evenings, they close the door. Mr. Hanson also walks around the premises and he does walk over the tracks to Shore Rd. with a decibel meter in order to assess the loudness of the sound for himself. It's not always perfect, but Balderdash has already fixed one problem with no speakers outdoors and the doors closed at 8:00 PM.

(2) Harvest Concert Series – he felt that they went pretty well, except that one of the bands had to be asked to lower the sound several times. If there are future concert series that band will not be asked to return.

(3) Special Function Permit – Allowing both a number of small events (under 100 people) and larger events. Balderdash has done eight small events during which Mr. Hanson has had no contact from anyone about issues arising from them. Among the larger events permitted under the Special Function Permit, the wedding that took place on September 14th resulted in complaints from many people and was unacceptable. Mr. Hanson apologized and said it would not be allowed to happen again. Other weddings earlier in the year were also thought to be producing loud noise, though not to an unreasonable degree. What he plans on doing to prevent a repeat of that problem is to install sound-absorbing walls around the tents on multiple sides, aim the speakers away from the Pond and continue to work with the musicians to keep the volume down.

Between more rigorous control over the volume of sound and sound-absorbing walls, there should be a considerable improvement in the noise level. Long-term plans include having all events inside a barn so that there will no longer be outside events. It will take a little time to achieve that end.

Their Permit Section D allows for 12 larger outdoor events, but Mr. Hanson does not wish to do more than 5 if the Board will allow that. There are three or four already booked for next year and, based on the experience from this past summer, he is aware that Balderdash is losing a fair amount of credibility. He does not wish to do any more events until that credibility is reestablished with the Board and the residents of Richmond Shores. He asked for a little flexibility to implement what he hopes will really remedy the situation and restore some of that credibility so that they can move forward in future years without disruption.

Mr. Alan Hanson noted that in listening to the recordings that were played at this meeting, the real issue seemed to be amplification of the bass sounds. He asked if there is a way to control

that – Mr. Christian Hanson said that different levels of sound absorption can be controlled, and high and low frequencies can be eliminated.

Mr. Manzolini asked Mr. Christian Hanson what he can do to guarantee that the problem that occurred on September 14th does not happen again. Mr. C. Hanson replied that he can require the musicians to turn the volume down every 15 minutes beginning at 9:00 PM and use the sound-absorption walls. Mr. Hanson noted that despite the description of the weddings being “out of control,” his staff will cut guests off from further alcohol when they appear to have gone beyond a certain limit and there have been no accidents and no problems. People calmly leave the venue at 10:00-10:45 so the weddings were not out of control – it was the noise that was out of control.

A comment from the floor indicated that the reason Balderdash is not hearing more from residents about the noise is that they are getting tired of calling and they don’t want to be the noise police and be responsible for determining whether the noise is too loud. Since at one point, the problem with the noise level was that there was a large crowd of people singing along to the music, how can that be controlled? It was also pointed out that the patio outside the building is larger than the indoors and on a nice summer evening everyone wants to be outside. Will Balderdash put up a tent that blocks the view of the Pond? Mr. Manzolini said he felt that the key to controlling the wedding situation is to have a serious discussion with the party booking the wedding to outline what can and cannot be done during the event.

A further comment from the floor complained that the noise coming from Balderdash was a foreign intrusion into the area that used to hear roosters crowing as the loudest noise. The property where Balderdash is located was a farm and is not appropriate for this kind of business. Given that the Town of Richmond maintains restrictive zoning for most businesses, it is hard for people to adjust to the changes; changes in the use of property that probably should not have been made what it is today.

Ms. Susan Webber of Whitewood. She noted that change is hard, but she has lived in Richmond for 25 years or longer and has visited other areas of the country where she has found communities that are supportive of change designed to make people want to live there. Everyone wants tax income, and everyone is always saying the Town needs more young people to live here. When she goes to Balderdash on Friday and Saturday evenings, there are many young people in attendance and Richmond looks suddenly vibrant, which she finds almost shocking and exciting. Ms. Webber is a teacher, and she wanted to teach her students that there are other careers available to them in the world and that it is okay to change. Ms. Webber asked Mr. C. Hanson for permission to bring some of her students to Balderdash to let them hear some other ideas of what they can do with their degree. Ariel, the Balderdash vintner, gave them an impressive hour and one-half talk at no charge. She sees Balderdash as a gift. Too often, people in Berkshire County say, “No,” “We’re afraid of change – we don’t want change.” Change is hard but let Balderdash work with the Town.

Mr. Manzolini said that it is clear that the residents have been heard from and that the Town is fortunate that the owner is very concerned about satisfying the primary complaint of noise. The Board will impose constraints on future events that will ensure that the noise problem is managed as well as possible.

Mr. Pilson noted that the Board makes decisions based on applications from interested parties. He asked Mr. C. Hanson if Balderdash had an application before the Board for anything further this year beyond what has already been approved. Mr. C. Hanson said he has nothing further at this time as the Farm Function program is now in effect. Mr. Pilson noted that the principle complaints he heard at this meeting relate to special event permits that were issued for functions that were considerably larger than what were covered by the Farm Function Permit.

Mr. Pilson said that as there were no applications for special permits for events before the Board at this time and, given the direction the weather is taking, it is unlikely there will be any further applications this year, it appears that the cycle has been completed for the events that constitute almost 100% of the issues that have been raised. All of those come under the Special Event Permit that will come up again in the Spring. Therefore, what action does the Board need to take tonight? They need to look at the Farm Function Permit and the events that took place under that umbrella, to see if any of those have raised the concerns that were raised here this evening.

A comment was made from the floor about the past Saturday's normal operating hours, from 1:00 – 5:00 PM with music from 2:00 – 5:00 PM. That person had walked her dog down to the boat ramp to try to understand how the music affected her neighbors as she does not hear the music at her house. She was able to hear the music at the boat landing though it was not overly loud in her opinion, but as she walked back into the Shores, the music started to get louder and she realized that in that area of the Shores she would not be able to sit on her deck and read a book due to the loud music. She was also able to clearly hear the voices of the people partying at Balderdash. The boat landing area is situated below the railroad tracks and does not get the benefit of the noise blocking effect of the berm that runs along the tracks.

Mr. C. Hanson noted that he heard about the noise problem on Saturday when he was out of town. He had left instructions that no speakers were to be placed outside, but there was a speaker outside. That will not happen again.

Mr. Manzolini commented about the effect of noise on birds. He has lived on Richmond Pond his entire life. In the 1960's he recalled never seeing an eagle, never seeing a goose or a bluebird or an egret or a bear. All that wildlife is visible here now – why did they come here? On the Pond there is a constant noise from airplanes, there was a seaplane that used to take off from the Pond every Saturday, motor boats on the Pond and three camps, all with P.A. systems and or bells who were constantly aggravating him and trains that went by four to five times a day as well as other noise producing sources. It has always been a noisy environment at times, nothing has changed. Once Mr. C. Hanson completes the corrections he is planning, the noise

level should improve substantially. In addition, the Board will impose certain restrictions on future events that will work toward resolving the issue.

Mr. Pilson asked that complaints sent to the Board should specify the date and time of the offense in order to help with discussions about next year's events. Mr. Pilson addressed Mr. C. Hanson on the use of the south parking lot during events. He had promised not to use that area for parking, but it has been used for parking. Mr. C. Hanson said that the 12 or so cars in the south parking lot belonged to his family and personal friends, for which he has permission to use that parking space.

Mr. Alan Hanson noted that he heard some talk about drunkenness in some of the testimony given at this meeting. According to the laws governing farm wineries, they can only serve five one-ounce tasting shots and no open containers by individuals on the premises. Mr. C. Hanson agreed that it is the law for the farm winery, but Balderdash also has a separate Farmer Series Pouring Permit, which allows them to pour glasses of wine.

Mr. Andy Kay of Cherry Rd. suggested that the Board consider placing a restriction on the decibels of the music at the source.

Mr. Pilson summed up the proceedings: He began by remarking on the extraordinary civility of the proceedings and thanking the people who spoke. There is no action before the Board at this time, so no decision or ruling needs to be made. He suggested that once the minutes have been transcribed, approved and posted on the Town's website the residents of Richmond Shores read them because that is what the Board will be referencing next Spring when Balderdash returns for further discussion. The Board is not, at this time, issuing any permits – special or otherwise for any further activity at Balderdash for the balance of this year.

There was a discussion of the number of weddings that had been approved as opposed to the number of weddings that were actually held, which was 2 – a much smaller number. Mr. C. Hanson noted that he has four additional weddings planned for upcoming months. Mr. Pilson reminded Mr. C. Hanson that, those weddings would need to be small events that would fall under the Farm Function Permit. Mr. C. Hanson said they would not exceed 175 people, which was acceptable.

Update on Results of Road Safety Audit for Rte. 41 and Dublin Rd. Intersection and Steps Taken: Mr. Manzolini deferred this item to the next meeting

Highway Superintendent Update on Current Projects: Mr. Beckwith reported on existing projects: The Town Barn – awarded to Chris May. Waiting on the power service to the current barn to be removed from the current structure and Williams Construction is planning to begin demolition in a few weeks to remove the section that is being taken out.

The Swamp Road paving – tentatively scheduled for October 22nd to the 25th It will take a day or two to plug all the joints and then two days of paving. Mr. Pilson asked if that project will require flaggers to control traffic on the road. Mr. Beckwith noted that all his staff members are

certified flaggers, but if he must engage a police officer for intersections, as State Law dictates, he will do that as well.

West Road Geo Grid Project just south of Rossiter Rd. - It was a test spot to deal with mud occurring there every year. As the weather progresses, Mr. Beckwith will monitor how that spot works as opposed to untreated spots around Town. Mr. Pilson asked Ms. Fillio if she had responded to a resident of Osceola Rd. who said she was speaking on behalf of several people asking that the town pave Osceola Rd. She replied that a response has not yet been made but that a first response would be that the Town understands her concern and the Highway Department will fill the potholes. Mr. Pilson asked that she advise the complainant that the work done on Osceola Rd. this past Spring was intended to reduce the chances of the type of mud issues encountered last winter. Mr. Hanson noted that he would also point out in that letter that this is a 30-year event that might not happen again for 30 years. Mr. Manzolini added that the Town has a policy of not changing road surfaces and to maintain a "country look." Mr. Manzolini said that the response should outline what has been done and that it is expected to fix the problem caused by a unique weather event.

Chip Seal done on Dublin Rd. and inside Colonial Acres is completed and is now going through the curing process. There had been a lot of complaints about the loose stone on Dublin, so Mr. Beckwith went over the road with a sweeper and moved a lot of that loose stone to the side. The plan for Colonial Acres is that Mr. Beckwith will sweep it at the end of October or, if there is a snowstorm predicted, do it before that. It will get cleaned up, but the longer it can be allowed to sit and have the traffic do the job of pushing the stones around and into the cracks and crevices, the better the road will cure.

There were no other new projects, but Mr. Beckwith noted he has been keeping up with the routine maintenance.

Sewer Matters: There were no issues to bring before the Board.

Town Administrator Report: Ms. Fillio reported that the design of the Library and possible Town Hall has been published and proposals are due in by October 22nd. There were six people on the walk-through today and so far, there have been 16 companies requesting the RFQ's.

EDM was at Town Hall today to do a walk-through to take measurements and check the entire interior and exterior of the building. They will meet with Ms. Fillio again next week so that the Town can start to look at potential plans. A formal proposal will be prepared for the Board's approval by the 18th of November and a presentation at the board meeting on November 20th.

Citizen's Security Corp. has submitted a quote for three additional wireless emergency devices. Those are emergency (Panic) buttons for employees to call for assistance in the event of a situation getting out of control. The alarm will sound in the dispatch office and to the State Police. Ms. Fillio expressed her concern that the State Police may not be anywhere close to this location when the alarm sounds. The Town could work with the company to dispatch either the

Richmond Fire Department or the Berkshire County Sheriff's Office. Mr. Beckwith said that if the alarm is set up to sound at the Berkshire Dispatch, the notice then has to be relayed to the Lee Barracks. He suggested instead that it be set up so that the alarm would automatically go to the Lee State Police Barracks and the West Stockbridge Police Barracks, which does have two full time officers and a bunch of part-time officers and there is usually someone on duty.

Mr. Manzolini moved that the Town purchase the devices. The motion was seconded and passed by unanimous consent.

New Copier/Printer arrived and was installed today, and it seems to work very well.

Sue Funk the Assistant Treasurer/Collector has resigned due to conflicts in her schedule that made it difficult to get here for the four-five hours per week of her commitment. Ms. Fillio spoke to Mr. Paul Lisi, the Town Treasurer/Collector. They would like to advertise for someone to fill the position for four to five hours per week. In her letter of resignation suggested making the position a daytime one, but Mr. Lisi and Ms. Fillio were unsure that it would be possible to attract someone for a daytime position that is so limited in hours and salary.

Mr. Manzolini gave Ms. Fillio authority to advertise and try to fill the position. Ms. Fillio will prepare a letter of thanks for Ms. Funk.

Ms. Jayne Smith is leaving the Berkshire Alliance for Health in December of this year. She is working with Ms. Claudia Ryan to bring her up to date with all aspects of the Board of Health day-to-day office work. Once the replacement for Ms. Smith comes, they will do more of the field work. The Alliance is working on a formal proposal to present to the Board.

Reminder to the Board that Ms. Fillio will be out of the office from November 18-20 for her third and final Procurement Classes after which she can become certified.

Selectmen's Matters: Mr. Hanson said he believed that there is a standing Road Committee, made up of the Chairs of all the different Boards that makes the decisions on roads. Mr. Beckwith said a discussion was held in either May or June, but nothing ever came of it.

Mr. Pilson reported that a resident pointed out that Town Hall needs a paint job on the outside. Whatever work the study being done now results in it won't happen for at least two to three years. Mr. Beckwith offered that he has spoken to the engineer and was told that the building needs all new siding all around. One whole side of the wall is rotten and cannot be painted without replacing the rotten siding. There is a lot more than paint that is needed. The Town will know in mid-November what the company's estimate is to renovate the whole building.

Next Meeting Dates: Wednesday October 23rd. Ms. Fillio suggested November 6th and November 20th to accommodate the Thanksgiving Holiday.

Approve Minutes for September 11, 2019 and September 19, 2019: Mr. Pilson had reviewed the September 11th minutes and corrections were made. He moved that the September 11,


2019 minutes be approved as corrected. Mr. Hanson seconded the motion, which was adopted by unanimous consent.

The September 19, 2019 meeting Mr. Pilson was not in attendance. Mr. Manzolini reviewed those minutes and had no comments. Mr. Manzolini moved that the September 19, 2019 minutes be approved as written. Mr. Hanson seconded the motion, which passed by unanimous vote.

There being no further business before the Board, Mr. Manzolini moved that the meeting be adjourned. He was seconded by Mr. Pilson and the motion was carried by unanimous consent.

The meeting was adjourned at 8:40 PM

Signed:

A handwritten signature in cursive script, appearing to read "R. Manzolini", is written over a horizontal line.

Mr. Roger Manzolini, Chair

e mail

Rev of Spec Permit
& Summer Events

I am MG and lucky to have a cottage on Shore road. MY wife and I purchased the cottage where my family including grandchildren enjoy Richmond Pond and its surroundings.

It had been a 40 year dream for my wife and myself to have a lake house here.

My family and all the residents of Richmond Shores cherish the peace and quiet

And the solitude which is increasingly hard to find today. We have supported organizations devoted to environmental quality and natural space preservation including Richmond shores civic assoc., Richmond Pond Assoc., Berkshire Natural Resources council, Pleasant valley Audubon, and the Hancock Shaker Village.

As discussed with Ken Kelly I have regularly walked the shores and cleaned up trash on a regular basis and have helped past president of the Shores civic assoc. Paul Brown with maintenance tasks.

As a teenager 50 years ago I learned to sail on Richmond pond. I was introduced to the Berkshires, a special place for its history, culture, solitude, and natural beauty. Though I spent much of my leisure time outdoors growing up, Richmond Pond and the surrounding mountains became a special place for me and my childhood best friend who now visits us at Richmond Shores where we continue to enjoy the Berkshires, sailing, kayaking, hiking, Nordic skiing, and long distance biking.

We hike up Lenox mountain and reminisce of the times we slept out on the mountain. Many of my neighbors, some of whom have lived here all their lives tell me similar stories of the quiet Richmond pond they knew from the past.

However, for the people of Richmond Shores our solitude is now regularly disrupted. Business is taking apriority over daily quality of life. Residents are now appealing to town administrator Danielle Filio, the selectmen, building inspector Paul Green, and the Pond Assoc. for relief and assistance in maintaining the characteristics of Richmond pond that make it such an attractive and peaceful place.

When events occur at Balderdsh at night we hear music instead of geese and owls.

As one of the 50 million birders in the country this is another enjoyable experience that is frequently eliminated. We are also concerned with the effect that the music has on protected animals such as the bald eagles that nest off the shore and the Osprey.

Miles Gafinkel
293 Shore Rd.

Our concerns at you know refer to the disturbances and disruptions coming from the Balderdash business. This is not a unique request as neighbors of the Hilltop winery have valid complaints of similar nature---the noise from loud music.

In addition customers pass through our neighborhood at night some right in front of my cottage in less than sober condition.

I have recently read most of the selectmen meeting minutes for the last two years. On paper the many processes for approval of the requests of the Balderdash business have moved through with oversight from the selectmen. To the residents of the shores it seems as though the Balderdash business activities are expanding and accelerating in their number and night time events.

In the February 14 Richmond town minutes Mr. Manzolini notes there are no neighbors that would generate neighborhood opposition and then cautions the owner of Balderdash that the town would be in oppositions to balderdash being intrusive in any way. *100 participants Refer to RPA minutes*

At an August 14 meeting Mr. Manzolini said that Balderdash is an experiment. If at the end of those events people were complaining about the noise and wanting it to stop it will stop. Is there a meeting as I understood there would be dedicated to determining if changes to the permits will occur? Pause.

I now refer to the Richmond planning board minutes of May 2018:

Mr. Vittorio said that noise from outdoor events was the biggest complaint from neighbors. When Mr. Vittorio asked whether a subcommittee should be formed to consider zoning law by law change Mr. ^{Alan} Hanson suggested that instead additional meetings of the planning board were necessary to get a revised zoning law written EXPEDITIOUSLY.

In a letter written to two of us from Paul Greene dated August 23, 2019 we the residents of the shores community and others states we can appeal the town's decision concerning the conditions and expectations of the "special permits" granted to Balderdash.

Stop outdoor music *5 numbers of events down*
Stage?
reduce # wedding
Restoration of Solitude

My name is Peter Miller and my wife is Josie. We have been homeowners of 314 Shore Road since 1987. We were introduced to Richmond Pond by Carl Foote, the Treasurer of RPA, who was gracious to lend his cottage to us back in 1979. He met my wife when they worked together in Hartford, CT.

We are blessed, blessed to have found Richmond Pond. Blessed that our special needs son had the opportunity of spending his childhood years exploring the pond and to see him flourish in an unchallenged environment.

So here we are in 2019, 32 years later, still excited about spending weekends and since we are retired the spur of the moment trips to the pond. It is now in our later years we have the opportunity of spending more time at the pond.

We thought by having paid our life's dues by paying taxes, serving our country in the military, raising our two children we would be slowing down with a respite which is Richmond Pond. Unfortunately for us our life's long dream has come to an abrupt end now that Balderdash Cellars has imposed on our home with the loud music and large gatherings of voices.

On September 14 a wedding was held at Balderdash Cellars and at 9:10 PM we were abruptly disturbed with the bass music vibrating into our home. It was chilly that evening so all of the windows and doors were closed but still the music could be heard. To further investigate I went down to the boat ramp where I observed the wedding in progress and noticed some kind of strobe light that changed colors with the music. We had houseguest that night who have two small grandchildren, age 2 and 4. The music woke them up and were kept up after 10:30PM when the music finally stopped. This was so disruptive to them that they mentioned to us in the morning that they could no longer visit us if the music would become a common occurrence.

I understand the Harvest Concert Series netted a contribution to RPA of \$ 5,500. But let us not forget the residents of each household for the betterment of the pond as we all contributing over \$ 30,000 each for the sewer project.

Relative to Noise Pollution - In 2005 my neighbor contracted to have her home reconfigured. Mr. Andrew Hochberg from Richmond Zoning of Appeals ruled as follows -

* NO DEMOLITION, EXCAVATION, CONCRETE WORK, FRAMING, ROOFING, OR SIDING SHALL BE CONDUCTED DURING WEEKENDS NOR SHALL ANY SUCH WORK OCCUR AT ANYTIME

* (SEE MR. HOCHBERG'S DIRECTIVE ATTACHED)

other than 8Am – 5PM weekdays, provided further that no such work referenced herein will be conducted during the period of July 1st through Labor Day.”

Mr. Hochberg’s directive was to eliminate construction noise on weekends during the summer so the residents continue to enjoy peace and quiet. Why doesn’t this Noise Abatement By-Law apply as well to the loud music from the winery? Is this an established precedent? Please, please do not put me in a position of having me be the monitor of volume or direction of speakers or anything else having to do with the loud music.

This loud music has to stop. Call it what you want - a concert or a wedding - it is destroying the “peace and quiet” that the town advertises in their brochure.

Should I sell my home, which would be my last resort, I would be required to advise potential buyers of this situation. Will this situation devalue my home, possibly making it unsellable?

Will this story headlines read – After 32 years Balderdash forces veteran to sell home due to loud music while Town of Richmond advertises peace and quiet?

I thank you for your time and consideration

Peter & Josephine Miller
314 Shore Road
October 10, 2019

10/10/2019 Board of Selectmen Meeting.

Statement by Leslie Breeding, Chestnut Road, Richmond Shores, pertaining to Balderdash's effects on Richmond Pond wildlife

My name is Leslie Breeding and I live on Chestnut Road, in the third row of houses back from the pond. I have had a home in the Berkshires for almost four decades. I bought what I hoped would be my last Berkshire home in Richmond Shores eight years ago. What's special about Richmond? The people, the gorgeous farmland, woodland and wetland habitats carefully guarded, including Richmond Pond. But the peace of the Pond has utterly changed.

I pay my taxes and civic association dues, I buy at local businesses. I look out for my neighbors and they look out for me. I volunteer with Berkshire Habitat for Humanity - there's a new house where a Dalton family lives now with my blood on the subflooring.

I retired here after a career with CBS News and NPR, and then two decades in public service, as an investigator and trial examiner for a federal agency. I found that, after many years of taking testimony and daily swearing folks in to tell me the truth, the whole truth, and nothing but the truth, you learn that people who think one rule doesn't apply to them, are very likely to ignore other rules.

Valentine's Day last year, Balderdash sought 3 permits for their agricultural location- farmer brewing, farmer winery and a permit to pour concrete. They said they hoped to use a patio for "special events such as weddings in the summer and fall". The selectmen discussed how close Balderdash would be to the nearest neighbor and concluded there were "no neighbors that would generate neighbor opposition." The Town was told "Normal hours of operation would end at 5pm." But at a Selectman meeting in May last year, the Town gave Balderdash permission to hold 35 weddings- that's a number that's important to remember—35 comes to about a wedding every weekend day, every weekend during the summer and fall. The business asked for permits to hold four special concert events, but it's these 35 other dates that are a major problem. These are not your father's Chevrolet. Wedding parties held at a winery get out of control, like they did on 9/14 and again on 10/5/19.

We've experienced concerts that didn't end on time, were loud and rowdy, and ordinary Fridays, Saturdays and Sundays starting early afternoon with live acts or canned recorded music, inside bar noise piped with speakers outside to the people on the lawn- and anyone else in ear shot. The landscaping they've done has turned the hillside there into one large speaker to the Pond. On top of that Balderdash plans to build a stage for next summer. Water not only carries sound, it turns the volume up, depending on temperature and the flatness of the water. A June 15, 2018, Berkshire Eagle story quoted the owners that Balderdash plans called for musical performances on Friday nights, "very low key, family-oriented" type of entertainment. Chris Hanson is quoted, "It's the kind of stuff where people can sit on the lawn," he said. "I guess we'll compete with Tanglewood. If Yo-Yo Ma wants to come and play, I'm not going to turn the guy away." But that's not the music we are hearing. And it's not just Fridays.

On 9/13, during a specially permitted concert- I recorded this : (RECORDING)

After the 9/13 concert- pretty representative of all of them-- the next night was Saturday - a Valentine's Day. The music and crowd noise was even louder than the "concert". It started 5:30pm and was still going at 10:30pm. That's five hours of loud crowd noise and music. Apparently while the Town limited the hours for permitted concerts, the weddings could go until 11pm.

So much has already been invested in the Pond to make it a gem of the town and of the county. Its healthy enough to attract a pair of nesting bald eagles, herons, hawks, osprey, owls, all protected predator birds, as well as plenty of ordinary mosquito eating birds. In addition to testifying about noise bothering us humans, I want to ask you to consider two other important issues:

First: There is a tragedy waiting to happen when the customers of Balderdash continue to walk across the railroad tracks—after drinking and in near darkness--- like these two women in a video I took on 9/13. (PHOTO) As recently as 9/24 and 9/27, the owners of Balderdash were crossing the tracks, even after the selectmen, the police and the railroad have told them not to, and to stop their customers from doing this.

Second, Berkshire County is our home, and is home to three bats and a turtle which are imperiled species or listed as endangered. In fact the Massachusetts Division of Fisheries & Wildlife says Berkshire county is the only county in Massachusetts that has bog turtles- 2 small groups on protected lands, said to be doing well, one bog turtle group that lives on private land- not doing well.

Our Pond is home to legally protected bald eagles, ospreys, and owls--- as well as plenty of ordinary birds that eat mosquitos which have become a health problem in our region, and predators who cull sick animals who may be carrying tick borne illnesses--important to our health and the pond habitat health.

The Pond is Balderdash's direct neighbor- featured prominently on the webpage and social media. The wildlife of the pond are its neighbors- along with us. **And there is brand new research that you need to consider about noise and wildlife.**

<https://science.sciencemag.org/content/early/2019/09/18/science.aaw1313>

Science magazine just last month reported – it was all over the news--that North America's birds are disappearing from the skies at a rate that's shocking even to ornithologists. Birds like sparrows and swifts, swallows and blue jays. Since the 1970s, North America has lost 3 billion birds-- nearly 30% of the total, the researchers called their research results "staggering,"

Human encroachment on their habitat was the biggest reason given.

https://www.fhwa.dot.gov/environment/noise/noise_effect_on_wildlife/effects/wild04.cfm

A US Department of Transportation study says "Animals rely on meaningful sounds for communication, navigation, avoiding danger and finding food against a background of noise."

Birds hear sound in a range of **100 Hz to 8-10 kHz**; that's different from how humans hear—we hear range of **10 Hz to 150 kHz**. -Birds are hearing what we hear, but also hearing amplified sound from Balderdash that we can't even hear or measure with simple instruments.

Birds begin feeling disruption and sensitivity at **0-10 decibels of human made noise**. **So when the owners say they are only getting 45 decibel readings at Richmond Shores, that is irrelevant to birds. And—to the -**

Amphibians - Ten turtle species live in Berkshire County. They eat insect larvae, and are as sound sensitive as birds. They range from the four inch threatened bog turtle, to the snapping turtle, which we've all seen in the Pond, reaching 19" long.

These turtles include our female turtles who appear along a shoreline just yards from Balderdash, and lay eggs at their ancestral pond shore site- Turtles hear from **100 Hz to 2 kHz**; —**almost as sensitive as birds**—and experience disruption and sensitivity to sound starting from **10 decibels to 60**.

The DOT states human noise does two things to these turtles and birds: 1. **Harm to health**, such as reproduction, survivorship, habitat use, distribution, abundance or genetic distribution.

And it causes 2. -**Disturbance** - which the study defines as causing a detectable change in behavior. Like - failure to reproduce, trouble with navigation, or avoidance behavior - meaning departing the Pond for another place.

Noise stimuli that startle animals are perceived as threats and generate self-preservation responses —like fleeing their eggs, or hiding - which are similar to responses to what a bird will do if it perceives a real predator threat.

Regarding us human animals, the noise from Balderdash causes us hours of stress, having to be Balderdash's unpaid sound monitors- waiting and waiting for it to stop and finally having to call them when it gets all too much.

<https://phys.org/news/2018-01-noise-pollution-chronic-stress-birds.amp>

The National Academy of Science published a study just last year, **the first to test the relationships between noise, stress hormones and fitness in animals that breed in natural areas with constant human-made noise**, that said birds exposed to persistent noise...show symptoms remarkably similar to those in humans suffering from post-traumatic stress disorder.

The study states that when human noise starts- half of birds will leave the area- when the noise ends, some may come back, but not all. It only takes increases in continuous noise of 5–10 decibels to cause this departure. (Ortega and Francis 2012).

The ones who stay- the 50 percent who stay- suffer. They are smaller, feathers are deranged, they live shorter lives, fail to reproduce.

The researchers studied adults and nestlings of three species - ordinary birds- finches, buntings—who showed multiple signs of chronic stress caused by noise pollution, including skewed stress hormone levels, possibly due to increased anxiety, distraction and hyper vigilance.

“Human made noise acts as an "acoustic blanket," muffling the audio cues birds rely on to detect predators, and each other. Unable to discern whether their environment is safe, mother birds must choose between staying on guard at the nest and finding food for their young.”

<https://www.smithsonianmag.com/science-nature/noise-pollution-might-cut-birds-lives-short-180970145/>

In August 2018, the Smithsonian reported that birds in a late juvenile stage of life - around here that's summer—were more vulnerable to a human noisy soundscape.

Recent fieldwork observing ordinary finches demonstrated that nesting parents exposed to human noise during their breeding and birthing period, and first 18 days of life of offspring — showed juvenile birds suffered the most effect - birds trying to survive on their own and learning to be birds – Human noise shortened their lives- all summer we have teenaged birds at this sensitive stage.

We can't ignore this new research about human noise effects on the Pond's wild residents.

Ospreys are protected under the Migratory Bird Treaty Act – 1918, Ospreys are not only protected but they are a **threatened** species. We are obligated to protect those who have chosen Richmond Pond. Bald Eagles have had a Protection Act since 1940. We have a nesting pair and also juveniles. Will they stay? Will their prey taking, or reproduction be disrupted?

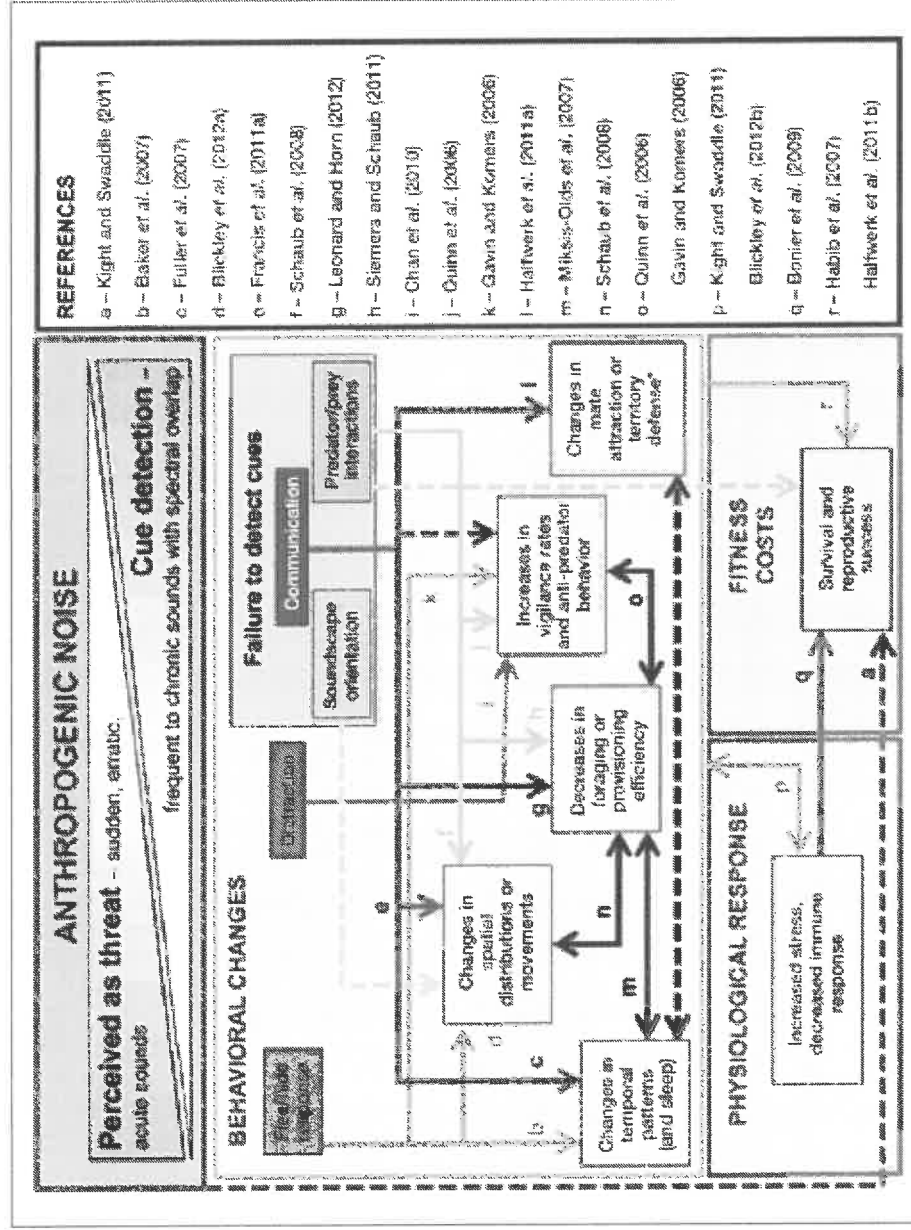
The land chosen by the owners is not a remote California vineyard, it is one part farmland, one part thickly populated neighborhood, and one part vulnerable and struggling pond ecology.

Balderdash has become a spigot of wine and beer, with noisy speakers and raucous crowds, and next year -a new stage-with a big sloping lawn broadcasting its noise to the whole pond- right across to the other side—they have a fabulous view of a Pond, arguably now it's Balderdash's pond because only they control the noise pollution, and only the Town can protect it from its current onslaught.

We are only borrowing this corner of the earth. Ornithologists John Fitzpatrick and Peter Marra wrote, in that “Birds are indicator species, serving as acutely sensitive barometers of environmental health, and their mass declines signal that the earth's biological systems are in trouble.” We are asked as individuals and communities to shepherd such important habitats as Richmond Pond and protect the many species who live there, not just because it's pleasant to have them and listen to their lives and watch them, but for our own self-interest as well.







Hochberg stated that that he believed that would be more detrimental to the neighborhood than the existing use. Furthermore, Hochberg found that if we allow the increase in density in the Richmond Shores District to become the norm, we would allow the taking of a substantially greater and greater portion of the view of the Pond for pedestrians, passers by and neighbors.

. As such, by a vote of four to one, Jennifer Sabino's application for special permit was granted subject to the following conditions:

1. A licensed surveyor must site the building and its foundation and no portion of said building may encroach further into the front or side setbacks than the existing structure.

2. A construction fence on the southwest side of the premises must be installed during the construction phase;

3. Any encroachment into setbacks will not be further than the existing wall on the southwest and northeast sides of the premises and the roof overhangs will not encroach further into the side yard setbacks than the existing roof overhangs; and

4. No demolition, excavation, concrete work, framing, roofing or siding shall be conducted during weekends nor shall any such work occur at anytime other than 8:00 a.m. to 5:00 p.m. weekdays, provided further that no such work referenced herein will be conducted during the period of July 1st through Labor Day.

At the public hearing, it was brought to the public's attention that the right to appeal this Board's decision is in effect for twenty (20) days following the date of the filing of this decision with the Richmond Town Clerk. Once this decision becomes final, you should record the Town Clerk's Certificate in the Berkshire Middle District Registry of Deeds.

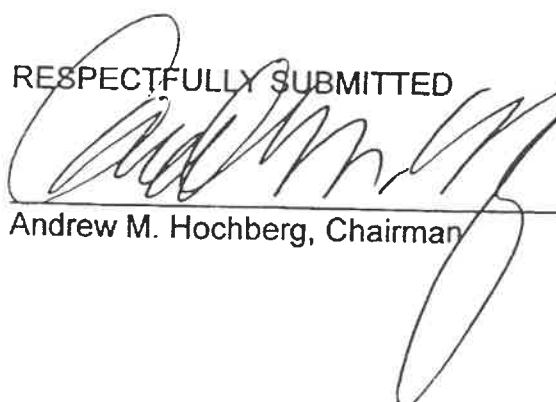
I certify that the Decision of the Richmond Zoning Board of Appeals was delivered via first class mail to the Richmond Town Clerk on Wednesday, May 11, 2005.

RECEIVED

MAY 12 2005

TOWN OF RICHMOND
TOWN CLERK

RESPECTFULLY SUBMITTED


Andrew M. Hochberg, Chairman

cc: Parties in Interest

NOTICE OF DECISION
ZONING BOARD OF APPEALS
Richmond, Massachusetts

Ms. Jennifer Sabino
310 Shore Road
Richmond, MA 01254

Lot 144, Map 101

RE: Petition for Special Permit for Jennifer Sabino to construct additions to an existing single-family dwelling not in conformance with the Zoning By-Law, Section 6.1.

The Richmond Zoning Board of Appeals conducted public hearings to act on the Application of Jennifer Sabino requesting a special permit to construct significant additions to her existing single-family dwelling located at 310 Shore Road, Richmond Shores, Richmond, Massachusetts. The Board, consisting of Chairman, Andrew M. Hochberg, John Mason, Leslie Abramowitz, Christine Abramowitz and Richard Berlin considered the petition over the course of several hearings. The first hearing was held on February 24, 2005 but was continued since the applicant had failed to file plans and the petition in a timely fashion. The matter was continued at the written request of the petitioner until March 24, 2005. On that date, the Board again reviewed the plan and had substantial concerns regarding the project. There was also correspondence received from abutters and interested parties and specifically Alex Rosenblum, Peter Miller and Lenore Lapin. After some discussion, the applicant again requested a continuance in writing until May 5, 2005 to provide her sufficient time to produce photographs with an overlay showing the proposed addition, to obtain letters in support of the petition from her neighbors and to seek legal counsel.

On May 5, 2005 the Board again met and conducted a second site visit (the previous site visit had been conducted in December, 2004 in connection with the previous application filed by the petitioner but which was withdrawn at her request). At the site visit, the applicant's architect, Harry Pisila, presented two panoramic photographs showing the proposed addition overlaid on top of the existing property and the view from the Sabino residence to the opposite side of Shore Road. The view showing the proposed addition overlaid on top of the existing property was taken, with permission, from the middle of Mr. Rosenblum's deck (the deck railings are clearly visible). This photograph was an accurate portrayal of the amount of view that would be blocked by the new addition. This Board also, with permission, looked at this view at the site visit.

After the site visit, the Board returned to the Town Hall and opened the hearing at 6:34 p.m. The applicant, through her attorney Elizabeth Quigley, Esq. and her architect Harry Pisila made their presentation. Questions focused on the extent of

construction, construction activities that were planned and the impact of the construction activities on the surrounding structures and neighborhood. The Board also evaluated the impact that the new addition would have on the view of Richmond Pond as it would affect the abutters and any others walking or passing by this section of Richmond Shores and Richmond Pond.

The Board considered an overnight mail package containing photographs sent by Alex Rosenblum, correspondence dated March 21, 2005 from Alex Rosenblum, correspondence dated March 24, 2005 from Peter Miller, correspondence dated March 21, 2005 from Peter Miller, correspondence dated March 25, 2005 from Beverly Brodeur, undated correspondence from Beverly Brodeur, correspondence dated May 5, 2005 from Doreen Godfroy, undated correspondence from Fred Hould, e-mail correspondence to Peter Miller from Alex Rosenblum sent May 3, 2005, e-mail correspondence from Lenore Lapin of 302 Shore Road dated March 22, 2005, e-mail correspondence from Peter Miller dated March 24, 2005, e-mail correspondence from Richmond Town Administrator, Bruce Garlow dated March 22, 2005 as well as correspondence dated January 28, 2005 from the Town of Richmond regarding the action of the Conservation Commission including the copy of WPA Form 2 - Determination of Applicability.

The Board noted that all correspondence received from abutters but for correspondence from Alex Rosenblum and Peter Miller, were in favor of the applicant's project and the Application for Special Permit, indicating they believed that it would be a benefit to Ms. Sabino and the surrounding area. Mr. Miller's letter of March 21, 2005, expressed concern that if plans like Ms. Sabino's became the "norm. . . we would wind up with houses that touch each other and completely encircle the lake availing no views for anyone else, how sad would that be." It was reported that while Mr. Miller had not updated any further correspondence beyond his letter of March 24, 2005, he was now in favor of Ms. Sabino's project.

After the applicant finished her presentation and correspondence was read into record, the Board reviewed the findings required in By-Law Section 6.3.4. Les Abramowitz indicated that this is one of the first times that this Board has had to evaluate the issue of how much view can be blocked and what amount of view is reasonable to take. Les Abramowitz, Christine Abramowitz, Richard Berlin and John Mason expressed their opinion that the taking of the view as shown by the overlay would be minimal and would be of only a portion of the corner of the pond at the very end of the Richmond Shores development. It was also noted that this type of construction was not inconsistent with the neighborhood. Andrew Hochberg indicated that he believed that the taking of any lake view is very significant and when we evaluate a special permit, it is important that if any portion of a view is taken, we must look at that application very carefully. When the portion of the view is of a water resource and of the Berkshire Hills in the background, Hochberg stated that he believed that would be very significant. Hochberg also concurred with Peter Miller's statement in his letter of March 21, 2005, that if we allow this to become the norm, we will allow the taking of a substantially greater and greater portion of the view for pedestrians, passers

by and neighbors.

The second issue evaluated by the Board was the issue of the construction activities during the construction phase and how that would impact the neighborhood. Conditions were discussed which would assure that there would be no greater non-conformity than the existing non-conforming setbacks. This was noted particularly because the architect, Harry Pisila, indicated that while the setback line would be extended on the westerly and easterly portions of the structure, only a surveyor could assure that the buildout would not encroach further than the setback.

After discussion of all the findings required in Section 6.3.4, the matter was called for a vote. John Mason, Les Abramowitz, Richard Berlin and Christine Abramowitz voted in favor approving the application for Special Permit making the following findings that the project:

- met the provisions of the Zoning By-law in that the renovations will remain within the required setbacks and not exceed the maximum allowed height for dwellings in the Richmond Shores Zoning District;
- was found to be in general harmony with the neighborhood and with other nearby dwellings including setbacks, roof lines and construction style;
- was not deemed to be detrimental to the neighborhood in that the minimal amount of view that would be obstructed was mitigated by the improvements that would be realized to the property; that the majority of neighbors who expressed an opinion, in the end, supported the project; and that conditions placed onto the construction were done to ensure neighbors would not have their summer months interrupted with heavy construction or be an inconvenience to them or that they would use such heavy equipment as to overload the roadways (nothing larger than a small bobcat would be used during the demolition portion); and
- Town resources would not be overburdened since no new bathrooms were being added and the residence would be tied into the new sewer line as part of the reconstruction.

In sum, the four members voting in favor of approving the application found that the proposed reconstruction and was in compliance with all the provisions and requirements of the By-Law and in harmony of its general intent and purpose, that it was desirable to the public convenience at the proposed location, would not be detrimental to adjacent uses or to the established or future character of the neighborhood, provided the conditions set forth below were complied with, would not create undue traffic congestion or unduly impair pedestrian safety and would not overload any public water drainage or sewer system.

Andrew Hochberg voted against granting the permit application stating that he believed it was not in compliance with the general intent and purpose of the Zoning By-law and would be detrimental to adjacent uses and the established and future character of the neighborhood because the taking of any lake view is very significant. When the portion of the view is of a water resource and of the Berkshire Hills in the background,

Ken's observations re Balderdash special events:

The following are my own observations, in part because I attended 3 of the 4 harvest concerts.

But let me preface my remarks by acknowledging that Balderdash has been exceedingly generous to the Richmond Pond Association, with the donation of all of the \$20/car parking fees collected at the 4 harvest concerts this fall – they rounded up the total collected, to \$7,000, & have donated this to the RPA.

This should not influence the RPA's position about the future of the harvest concerts, though it is certainly very much appreciated.

I immensely enjoyed the 3 concerts I attended – they were clearly family-oriented events, with many children in attendance, with beach balls for the kids to play with, & dancing in front of the band. They drew both Richmond residents, their visiting guests, & many folks from neighboring towns. There were food vendors, Adirondack chairs on the patio & each level of the amphitheatre, pumpkin sales from Clark Farm, etc. But the 4th concert was, in my opinion, too loud, right there at the venue.

For context, it's important to remember that both the residents around & visitors to the pond already are subject to many noise disturbance sources on Richmond Pond, some of them historical, some new:

Airplane noise, especially early morning & late night take-offs from Pittsfield Airport

Train noise (both freight & passenger)

Lakeside Christian Camp, especially evening amplified music from recreation hall

Camp Russell summer camp activities, especially at waterfront, often with amplified music; also occasional special events

Jet-ski high-speed activity (there are 4 jet-skis moored along shoreline residences)

Construction activity at cottages & homes around the pond

Fireworks, especially around 4th of July

So we already have a lot of “unnatural” noise. In this context, even the 4th harvest concert, which in my assessment was too loud, even while I was at the venue, was less disturbing from far across the pond than some of Lakeside Christian Camp's evening bands in their open recreation hall. (I drove over to my cottage during part of the 4th Balderdash concert to listen.)

So in my personal opinion, approved Balderdash outdoor special events should require better management of noise disturbance, be limited to several fall concerts in future years, be well-advertised in advance, & stay within stated time limits. While most residents of the pond appear to be neutral toward or actively supportive of Balderdash outdoor events, the concerns of those physically closest to Balderdash should weigh heavily in the parameters of future event approvals. Frankly, I'm more concerned about what could develop into very frequent summer amplified outdoor weddings, when everyone keeps their windows open, that stretch out over a longer time frame & may be more difficult to control.