



Town of Sheffield

Planning Board

P.O. Box 325

Sheffield, MA 01257

Fax (413) 229-7010

TTY 800-439-2370

Regular Meeting

Wednesday, November 20 2013, 7:00 PM

TOWN HALL – 2nd FLOOR MEETING ROOM

Planning Board Members Present: Peter Cherneff, Chair
Maria Nation
David A. Smith, Sr.

Alternate Planning Board Member Present: Christopher Tomich

Absent Planning Board Member: Margaret Martin
James T. Collingwood Jr.

Members of the Public Present: Chris Weld, 1640 Home Rd. Sheffield

The Chair called this Regular Meeting of the Planning Board to order at 7 p.m.

Special Permit Application, Berkshire Mountain Holdings:

Chris Weld submitted his amended Special Permit Application. C. Tomich asked Mr. Weld about the purpose of the building currently being renovated. Mr. Weld said it will be office space. C. Tomich explained to Mr. Weld that if only 4 members of the Planning Board are present at the hearing, and it is not recorded for the 5th member, then the decision on the Special Permit Application will have to be unanimous.

The Chair noted that the Board is holding a public hearing on December 4th on the proposed Formula Business Bylaw. He said the 1st available hearing date for Berkshire Mountain Distillers would be December 11.

D. Smith Sr. made a Motion to hold the public hearing at 7:30 December 11, M. Nation seconded the motion and it was approved by P. Cherneff, M. Nation and D. Smith, Sr.

Minutes:

The Board reviewed the minutes of the October 9, 2013. *D. Smith Sr. made a Motion to accept the Minutes of October 9 as written. M. Nation seconded the motion and it was approved by P. Cherneff, M. Nation and D. Smith, Sr.*

The Board reviewed the minutes of the October 23, 2013. *D. Smith Sr. made a Motion to*

accept the Minutes of October 23 as written. M. Nation seconded the motion and it was approved by P. Cherneff, M. Nation and D. Smith, Sr .

Form A Application, Gibbons:

Felecie Joyce, Town Clerk, submitted a certificate stating that the Planning Board failed to act within 21 days on the Form A Application of Dennis and Susan Gibbons. Failure to act is deemed approval according to Massachusetts General Laws, Chapter 41 Section 81P.

Mail:

The Board received notice of offer of employment to Jill Hughes as Assistant to Planning Board among other duties.

The Board received a copy of a notice and letter from Koppelman and Paige.

There was discussion about the fact that the Planning Board had asked the Select Board for permission to review the interrogatories with the Town Attorney, yet has still not been granted such permission.

Rhonda LaBombard wrote a letter regarding the fact that the Select Board is forming a Bylaw Review Committee and they would like one member from each of the Commissions to form the Committee. Planning Board members thought that J. Collingwood might be interested. When J. Collingwood and M. Martin return the Board will discuss who would like to join the newly forming Bylaw Review Committee.

The Board reviewed a notice from the ZBA

The Board received an anonymous correspondence and will not consider it because it is anonymous. The present Planning Board's policy is not to accept anonymous communications.

The Board received a letter dated Nov 12 from David West, see attachments.

D. Smith Sr. made a Motion to adjourn, seconded by M. Nation. The Motion was approved unanimously.

At 8:20 PM the Planning Board adjourned the Regular Meeting.

Respectfully submitted



Nadia Milleron
Secretary to the Planning Board

Town of Sheffield Planning Board

Regular Meeting List of Persons Attending

Date: Wednesday November 20, 2013
Time: 7:00 PM

Name Address Representing

Chris Weld 1640 Home Rd. Berkshire Mountain Distillers

11/20/2013
PB Mtg
attachment

KNOW ALL MEN BY THESE PRESENTS:

That I, FELECIE JOYCE, Clerk of the Town of Sheffield, make the following certificate pursuant to Chapter 41, Section 81P, of the General Laws of Massachusetts:

On October 23rd, 2013, there was submitted to the Planning Board of the Town of Sheffield under the provision of Section 81P of Chapter 41 of the general laws, a plan entitled Plan of Land Surveyed For Dennis S. & Susan L. Gibbons dated October, 2013. Prepared by KELLY, GRANGER, PARSONS & ASSOC. INC. and a properly completed "Form A" requesting the Planning Board's Endorsement "Subdivision Approval not Required."

Twenty one (21) days have expired since the submittal of said plan.

The Planning Board of the Town of Sheffield has failed to act upon said plan within 21 days or has failed to notify me of its action within twenty one (21) days of submission of said plan.

WITNESS my hand and seal this 14th day of Nov., 2013.

Felecie Joyce

COMMONWEALTH OF MASSACHUSETTS

Berkshire, ss.

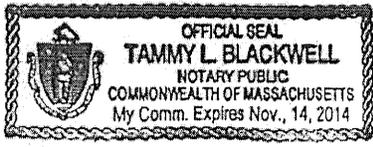
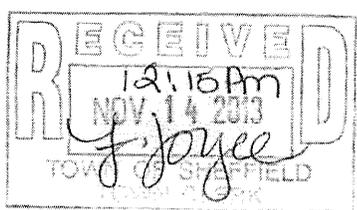
Then personally appeared the above named Felecie Joyce

Clerk of the Town of Sheffield and affirmed the truth of the

Statements made herein, before me,

Tammy L. Blackwell
Notary Public

Nov. 14, 2014
Commission expiration date



TOWN OF SHEFFIELD SUBDIVISION REGULATIONS

FORM A

APPLICATION FOR A DETERMINATION OF PLANNING BOARD JURISDICTION AND FOR ENFORCEMENT THAT PLANNING BOARD APPROVAL UNDER SUBDIVISION CONTROL LAW IS NOT REQUIRED.

File I completed form with the Planning board and I copy with the Town Clerk in accordance with the requirements of Section 4.0 I of the Rules and Regulations Governing the Subdivision of Land in Sheffield MA, as most recently amended.

Date: 10/23/2013
Sheffield, MA 01257

To the Planning Board of the Town of Sheffield:

The undersigned, believing that the accompanying plan of his property in the Town of Sheffield does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits said plan (in triplicate) for a determination and endorsement that Planning Board approval under the Subdivision Control law is not required.

1. Name of Owners(s): Dennis S. & Susan L. Gibbons Address: C/O Kelly, Granger, Parsons & Assoc., Inc.

2. Plan prepared by: Kelly, Granger, Parsons & Assoc., Inc.
(Registered Land Surveyor / Engineer)

Entitled: Plan of Land Prepared for Dennis S. & Susan L. Gibbons Dated: October 2103

3. Deed of property recorded in: Southern Berkshire Registry of Deeds

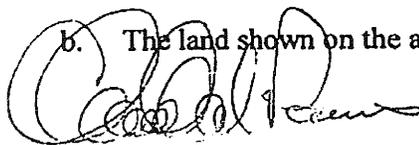
Book: 1960 Page: 59

4. Location and Description of Property: 2 parcels of land on the easterly side of Barnum Street. Lot 1 consisting of 1.634 acres and lot 2 consisting of 1.679 acres.
Zoning District: Rural

5. Applicant(s) believes that Planning Board approval is not required for the following reasons:

a. The division of land shown on the accompanying plan is not a subdivision because every lot shown thereon has the frontage, and the area required by the Town's Zoning By-Law, and is on a public way, namely, Barnum Street, or on a private way, namely _____ which was approved by the Planning Board under the Subdivision Control Law as a subdivision entitled: _____

b. The land shown on the accompanying plan is not a subdivision for the following reasons(s):



Signature(s)

C/o Kelly, Granger, Parsons & Assoc., Inc.
Address PO Box 88, Gt. Barrington, MA 01230

Rev. 2/11

Check Register

Kelly, Granger, Parsons & Assoc., Inc.
11/14/2013

| Date | Num | Transaction | Payment | C | Deposit | Balance |
|------------|-------|--|---------|---|---------|---------|
| 10/23/2013 | 20968 | Town Of Sheffield cat: FORM "A" memo: Form A - Gibbons | 100.00 | | | |

NOV 14 2013

without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the Town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.

Z. SUBDIVISION CONTROL: The lawful authority of the Board pursuant to the Constitution of the Commonwealth of Massachusetts, chapter 41 of the General Laws, these Rules and Regulations, and other statutes, ordinances, and bylaws to regulate the subdivision of land in the Town of Sheffield.

AA. UTILITIES Gas, electric, water, drainage, cable television, telephone, sewer, steam distribution and related and ancillary services.

BB. WETLANDS: Any lands or waters subject to sections 40 and/or 40A of chapter 131 of the General Laws and the regulations promulgated pursuant thereto.

SECTION 3: GENERAL

3.01 BASIC REQUIREMENT

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town, or proceed with the improvements or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a plan has been endorsed "Planning Board Approval Not Required" or a Definitive Plan of such subdivision has been submitted to and approved by the Board (M.G.L. C. 41, s. 81-0).

3.02 LIMITATION OF ONE BUILDING ON ANY LOT

Not more than one building designed or available for use for dwelling purposes shall be elected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the town, without the consent of the planning board, and that such consent shall be conditional upon the providing of adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots within a subdivision. (M.G.L. C.41, s. 81-Q).

3.03 EFFECT OF PRIOR RECORDING

The recording of a plan of subdivision within the Town in the Southern Berkshire District Registry of Deeds prior to the effective date of the Subdivision Control Law in the Town of Sheffield shall not exempt the land within such subdivision from the application and operation of these Rules and Regulations except as specifically exempt by Chapter 41, Section 81FF, of the General Laws and the Sheffield Zoning Bylaws.

3.04 REFERENCE

For matters not covered by these rules and regulations reference is made to Sections 81K to 81GG, inclusive, of Chapter 41 of the General Laws

3.05 SEVERABILITY

If any part or portions of these rules and regulations should be adjudicated as invalid, the adjudication shall apply only to the material so adjudged, and the remaining rules and regulations shall be deemed valid and of full force and effect. (M.G.L. C. 41, s. 81-GG)

NOV 14 2010

SECTION 81-P.

Endorsement of Plans Not Requiring Approval Under Subdivision Control Law

Procedure

Endorsement Within
21 Days

If Approval Required,
Notice to Clerk and
Applicant Within
21 Days

Failure to Act
Deemed Approval

Signature of Other Than
Majority of Board

Statement to
Register of Deeds and
Recorder of Land Court

Any person wishing to cause to be recorded a plan of land situated in a city or town in which the subdivision control law is in effect, who believes that his plan does not require approval under the subdivision control law, may submit his plan to the planning board of such city or town in the manner prescribed in section eighty-one T, and, if the board finds that the plan does not require such approval, it shall forthwith, without a public hearing, endorse thereon or cause to be endorsed thereon by a person authorized by it the words "approval under the subdivision control law not required" or words of similar import with appropriate name or names signed thereto, and such endorsement shall be conclusive on all persons. Such endorsement shall not be withheld unless such plan shows a subdivision. If the board shall determine that in its opinion the plan requires approval, it shall within twenty-one days of such submittal, give written notice of its determination to the clerk of the city or town and the person submitting the plan, and such person may submit his plan for approval as provided by law and the rules and regulations of the board, or he may appeal from the determination of the board in the manner provided in section eighty-one BB. If the board fails to act upon a plan submitted under this section or fails to notify the clerk of the city or town and the person submitting the plan of its action within twenty-one days after its submission, it shall be deemed to have determined that approval under the subdivision control law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith the city or town clerk shall issue a certificate to the same effect. The plan bearing such endorsement or the plan and such certificate, as the case may be, shall be delivered by the planning board, or in case of the certificate, by the city or town clerk to the person submitting such plan. The planning board of a city or town which has authorized any person, other than a majority of the board, to endorse on a plan the approval of the board or to make any other certificate under the subdivision control law, shall transmit a written statement to the register of deeds and the recorder of the land court, signed by a majority of the board, giving the name of the person so authorized.

SECTION 81-X.

Requirements for Registration of Plan

Approval by
Planning Board

Approval Not Required

Approval by Failure
of Planning Board
to Act

Reference to Certificate

Time Limit of
Date of Endorsement

Certification that
Plan Not Changed

Authorized Endorsement

Notice to Register
and Recorder

No register of deeds shall record any plan showing a division of a tract of land into two or more lots, and ways, whether existing or proposed, providing access thereto, in a city or town in which the subdivision control law is in force unless (1) such plan bears an endorsement of the planning board of such city or town that such plan has been approved by such planning board, and a certificate by the clerk of such city or town, is endorsed on the plan, or is separately recorded and referred to on said plan, that no notice of appeal was received during the twenty days next after receipt and recording of notice from the planning board of the approval of the plan, or, if an appeal was taken, that a final decree has been entered by the court sustaining the approval of the plan, or (2) such plan bears an endorsement of the planning board that approval of such plan is not required, as provided in section eighty-one P, or (3) the plan is accompanied by a certificate of the clerk of such city or town that it is a plan which has been approved by reason of the failure of the planning board to act thereon within the time prescribed, as provided in sections eighty-one U and eighty-one V, or that it is a plan submitted pursuant to section eighty-one P and that it has been determined by failure of the planning board to act thereon within the prescribed time that approval is not required, and a reference to the book and page where such certificate is recorded is made on said plan; and, unless, in case of plans approved, the endorsement or certificate is dated within six months of the date of the recording, or there is also endorsed thereon or recorded therewith and referred to thereon a certificate of the planning board or city or town clerk, dated within thirty days of the recording, that the approval has not been modified, amended or rescinded, nor the plan changed. Such certificate shall upon application be made by the board or by the clerk unless the records of the board or clerk receiving the application show that there has been such modification, amendment, rescission or change. The planning board of a city or town which has authorized any person, other than a majority of the board, to endorse on a plan the approval of the board or to make any other certificate under the subdivision control law, shall transmit a written statement to the register of deeds and the



KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

PB atg 11/20/13
attachment

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

November 1, 2013

Joel B. Bard
jbard@k-plaw.com

J. Gavin Cockfield, Esq.
Kendra Kinscherf, Esq.
Davis, Malm & D'Agostine, P.C.
One Boston Place, Suite 3700
Boston, MA 02108

Re: Primax Properties, LLC v. Bart Elsback, et al. (Sheffield ZBA, Town)
Land Court, C.A. No. 13MISC478347-HMG

Dear Mr. Cockfield and Ms. Kinscherf:

Enclosed with respect to the above-captioned case, please find the following:

1. Defendant, Town of Sheffield's Response to Plaintiff's First Request for Production of Documents;
2. Defendant, Sheffield Planning Board's Response to Plaintiff's First Request for Production of Documents;
3. Defendant, Sheffield Zoning Board of Appeals' Response to Plaintiff's First Request for Production of Documents;
4. Certificates of Service.

Thank you for your attention to this matter.

Very truly yours,

Joel B. Bard

JBB/lem

Enc.

cc: Board of Selectmen
Zoning Board of Appeals
Planning Board

485442/SHEF/0017



KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

PB mtg 11/20/13
Attachment

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November 15, 2013

Katherine D. Laughman
klaughman@k-plaw.com

Ms. Kendra Kinscherf, Esq.
Davis, Malm & D'Agostine, P.C.
One Boston Place, Suite 3700
Boston, MA 02108

Re: Primax Properties, LLC v. Bart Elsback, et al. (Sheffield ZBA, Town)
Land Court, C.A. No. 13MISC478347-HMG

Dear Attorney Kinscherf:

Enclosed please find the Defendant, Town of Sheffield's Answers to Plaintiff's First Set of Interrogatories and Defendant, Sheffield Zoning Board of Appeals' Answers to Plaintiff's First Set of Interrogatories. We will provide you with the Defendant Sheffield Planning Board's Answers to Plaintiff's First Set of Interrogatories at a later date.

Thank you for your attention to this matter.

Very truly yours,

Katherine D. Laughman

KDL/man

Enc.

cc: Town Administrator
Zoning Board of Appeals
Planning Board ✓

486442/SHEF/0017

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS.

LAND COURT DEPARTMENT
NO. 13 MISC 478347-HMG

PRIMAX PROPERTIES, LLC,

Plaintiff

v.

BART ELSBACK, ERIC BLACKBURN,
ERIC CARLSON, RICHARD KIRCHNER
and ALISON LASOUE, as they are members
of the Sheffield Zoning Board of Appeals;
DAVID SMITH, SR., MARGARET Z.
MARTIN, PETER CHERNEFF, JAMES T.
COLLINGWOOD, JR., and MARIA
NATION, as they are members of the Sheffield
Planning Board; and the TOWN OF
SHEFFIELD, MASSACHUSETTS,

Defendants

DEFENDANT, SHEFFIELD ZONING
BOARD OF APPEALS RESPONSE
TO PLAINTIFF'S FIRST
REQUEST FOR PRODUCTION
OF DOCUMENTS

Defendant, Sheffield Zoning Board of Appeals ("ZBA"), responds to Plaintiff's First Request for Production of Documents as follows:

GENERAL OBJECTIONS

The ZBA generally objects to Plaintiff's Request for Production of Documents to the extent that it is vague, overly broad and unduly burdensome and imposes obligations in excess of those imposed by Rules 26 and 34 of the Massachusetts Rules of Civil Procedure.

The ZBA will not produce those documents, if any, which are privileged or which were prepared in anticipation of litigation or for trial by or for the ZBA or by or for any of its representatives, nor shall the ZBA produce documents which are otherwise beyond the bounds of permissible discovery, as defined in Rule 26(b) of the Massachusetts Rules of Civil Procedure.

By stating that production is permitted with respect to any specific request, the ZBA is not representing that any documents exist, but will produce the documents requested, if any, subject to the foregoing general objections.

REQUEST NO. 1

All documents identified by you in responding to any interrogatories in this case.

RESPONSE NO. 1

None.

REQUEST NO. 2

All documents you intend to introduce in any trial or in connection with any motion of this case.

RESPONSE NO. 2

The ZBA has not yet identified the documents, if any, it intends to introduce at the trial of this action. When and if a further determination is made in this regard, this request shall be supplemented in accordance with applicable court rules or court order.

REQUEST NO. 3

All documents that constitute the public record of the Decision.

RESPONSE NO. 3

The ZBA agrees to make its public records available for inspection and copying by appointment at Town Hall during regular business hours.

REQUEST NO. 4

All documents that constitute, evidence, set forth, discuss, summarize, describe, or refer to the process or procedure that gave rise to the adoption of Bylaw §3.1.3.D.15, including, but not limited to, drafts and all versions of any and all town warrant articles related to the adoption

of Bylaw §3.1.3.D.15, public hearing notices, public hearing meeting minutes, the Board's report and all drafts thereof, the meeting minutes for each vote on the adoption of Bylaw §3.1.3.D.15, and all emails, memoranda, notes or other documents that relate to the foregoing.

RESPONSE NO. 4

The ZBA objects to Request No. 4 on the grounds it is overly broad, vague, unduly burdensome and seeks information that is irrelevant and not admissible evidence.

Notwithstanding this objection and without waiving the same, the ZBA agrees to make its public records available for inspection and copying by appointment at Town Hall during regular business hours.

REQUEST NO. 5

All documents that constitute, evidence, set forth, discuss, summarize, describe, or refer to the process or procedure that gave rise to the adoption of Bylaw §3.1.3.D.30, including, but not limited to, drafts and all versions of any and all town warrant articles related to the adoption of Bylaw §3.1.3.D.30, public hearing notices, public hearing meeting minutes, the Board's report and all drafts thereof, the meeting minutes for each vote on the adoption of Bylaw §3.1.3.D.30, and all emails, memoranda, notes or other documents that relate to the foregoing.

RESPONSE NO. 5

The ZBA objects to Request No. 5 on the grounds it is overly broad, vague, unduly burdensome and seeks information that is irrelevant and not admissible evidence.

Notwithstanding this objection and without waiving the same, the ZBA agrees to make its public records available for inspection and copying by appointment at Town Hall during regular business hours.

REQUEST NO. 6

All documents that constitute, evidence, set forth, discuss, summarize, describe, or refer to the process or procedure that gave rise to the adoption of Bylaw §3.1.3.D.31, including, but not limited to, drafts and all versions of any and all town warrant articles related to the adoption of Bylaw §3.1.3.D.31, public hearing notices, public hearing meeting minutes, the Board's report and all drafts thereof, the meeting minutes for each vote on the adoption of Bylaw §3.1.3.D.31, and all emails, memoranda, notes or other documents that relate to the foregoing.

RESPONSE NO. 6

The ZBA objects to Request No. 6 on the grounds it is overly broad, vague, unduly burdensome and seeks information that is irrelevant and not admissible evidence. Notwithstanding this objection and without waiving the same, the ZBA agrees to make its public records available for inspection and copying by appointment at Town Hall during regular business hours.

REQUEST NO. 7

All certificates of occupancy for properties located in Sheffield, Massachusetts that are or have in the past ten (10) years been classified in whole or in part as a "Retail establishment for the sale of produce, wine, and dairy products."

RESPONSE NO. 7

The ZBA objects to Request No. 7 on the grounds it is overly broad, vague, unduly burdensome and seeks information that is irrelevant and not admissible evidence. Notwithstanding this objection and without waiving the same, the ZBA agrees to make its public records available for inspection and copying by appointment at Town Hall during regular business hours.

REQUEST NO. 8

All certificates of occupancy for properties located in Sheffield, Massachusetts that are or have in the past ten (10) years been classified in whole or in part as a Restaurant.

RESPONSE NO. 8

The ZBA objects to Request No. 8 on the grounds it is overly broad, vague, unduly burdensome and seeks information that is irrelevant and not admissible evidence. Notwithstanding this objection and without waiving the same, the ZBA agrees to make its public records available for inspection and copying by appointment at Town Hall during regular business hours.

REQUEST NO. 9

All certificates of occupancy for properties located in Sheffield, Massachusetts that are or have in the past ten (10) years been classified in whole or in part as a Market.

RESPONSE NO. 9

The ZBA objects to Request No. 9 on the grounds it is overly broad, vague, unduly burdensome and seeks information that is irrelevant and not admissible evidence. Notwithstanding this objection and without waiving the same, the ZBA agrees to make its public records available for inspection and copying by appointment at Town Hall during regular business hours.

REQUEST NO. 10

All certificates of occupancy for properties located in Sheffield, Massachusetts that are or have in the past ten (10) years been classified in whole or in part as a Retail store, individual.

RESPONSE NO. 10

The ZBA objects to Request No. 10 on the grounds it is overly broad, vague, unduly burdensome and seeks information that is irrelevant and not admissible evidence.

Notwithstanding this objection and without waiving the same, the ZBA agrees to make its public records available for inspection and copying by appointment at Town Hall during regular business hours.

REQUEST NO. 11

All certificates of occupancy for properties located in Sheffield, Massachusetts that are or have in the past ten (10) years been classified in whole or in part as Retail.

RESPONSE NO. 11

The ZBA objects to Request No. 11 on the grounds it is overly broad, vague, unduly burdensome and seeks information that is irrelevant and not admissible evidence.

Notwithstanding this objection and without waiving the same, the ZBA agrees to make its public records available for inspection and copying by appointment at Town Hall during regular business hours.

REQUEST NO. 12

A copy of all site plans approved by the ZBA, the Board, the Town, or its Zoning Enforcement officer that depicts any parking spaces, parking areas, driveways, maneuvering areas or aisles on the property within the past ten (10) years.

RESPONSE NO. 12

The ZBA objects to Request No. 12 on the grounds it is overly broad, vague, unduly burdensome and seeks information that is irrelevant and not admissible evidence.

Notwithstanding this objection and without waiving the same, the ZBA agrees to make its public

records available for inspection and copying by appointment at Town Hall during regular business hours.

REQUEST NO. 13

All decisions or minutes of meetings for the ZBA or the Board issued within the last ten (10) years that address the application of Bylaw §3.1.3.D.30, §4.4, §6.1.1.1, §6.1.1.7, §6.1.1.8, §6.1.3.1, §6.1.3.2, §6.1.3.10, or §6.1.3.13.

RESPONSE NO. 13

The ZBA objects to Request No. 13 on the grounds it is overly broad, vague, unduly burdensome and seeks information that is irrelevant and not admissible evidence. Notwithstanding this objection and without waiving the same, the ZBA agrees to make its public records available for inspection and copying by appointment at Town Hall during regular business hours.

REQUEST NO. 14

A copy of all stop work orders or zoning violations issued by the ZBA, Board, town, or the Zoning Enforcement Officer in the past 10 years relating to Bylaw §3.1.3.D.30, §4.4, §6.1.1.1, §6.1.1.7, §6.1.1.8, §6.1.3.1, §6.1.3.2, §6.1.3.10, o §6.1.3.13.

RESPONSE NO. 14

The ZBA objects to Request No. 14 on the grounds it is overly broad, vague, unduly burdensome and seeks information that is irrelevant and not admissible evidence. Notwithstanding this objection and without waiving the same, the ZBA agrees to make its public records available for inspection and copying by appointment at Town Hall during regular business hours.

DEFENDANTS

By their attorneys,



Joel B. Bard (BBO# 029140)
Katherine D. Laughman (BBO# 657250)
Kopelman and Paige, P.C.
Town Counsel
101 Arch Street, 12th Floor
Boston, MA 02110-1109
(617) 556-0007
jbard@k-plaw.com
klaughman@k-plaw.com

481652/SHEF/0017

CERTIFICATE OF SERVICE

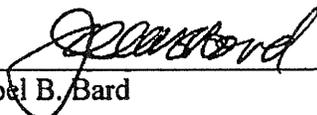
I, Joel B. Bard, hereby certify that on the below date, I served copies of the Defendant, Town of Sheffield's Response to Plaintiff's First Request for Production of Documents, by first-class mail, postage prepaid, to the following counsel of record:

J. Gavin Cockfield, Esq.
Kendra Kinscherf, Esq.
Davis, Malm & D'Agostine, P.C.
One Boston Place, Suite 3700
Boston, MA 02108

Dated: _____

11/1/13

Joel B. Bard



COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS.

LAND COURT DEPARTMENT
NO. 13 MISC 478347-HMG

PRIMAX PROPERTIES, LLC,

Plaintiff

v.

BART ELSBACK, ERIC BLACKBURN,
ERIC CARLSON, RICHARD KIRCHNER
and ALISON LASSOE, as they are members
of the Sheffield Zoning Board of Appeals;
DAVID SMITH, SR., MARGARET Z.
MARTIN, PETER CHERNEFF, JAMES T.
COLLINGWOOD, JR., and MARIA
NATION, as they are members of the Sheffield
Planning Board; and the TOWN OF
SHEFFIELD, MASSACHUSETTS,

Defendants

DEFENDANT, TOWN OF
SHEFFIELD'S ANSWERS TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES

The Defendant, Town of Sheffield (the "Town"), hereby responds to the First Set of Interrogatories Propounded by the Plaintiffs. In making its responses, the Town reserves its rights and objects as follows:

1. The right to object, on any ground, to the use of any of these responses in any other subsequent proceeding or during the trial of this or any other action;
2. The right to object, on any ground and at any time to any demand for further responses to these or to any other interrogatories, or to any other discovery procedures involving or relating to the subject matter of the interrogatories herein responded to; and
3. The right, at any time, to revise, correct, supplement or clarify any of the responses herein set forth.

GENERAL OBJECTIONS

1. The Town objects to the production of information protected from discovery by virtue of the attorney-client, work-product, or any other privilege and the production of information protected from discovery in any other manner.
2. The Town objects to each and every interrogatory which seeks information beyond the scope of Mass.R.Civ.P. 26.
3. The Town objects to each and every interrogatory which seeks to elicit a legal conclusion or an admission.
4. Each of the following responses of the Town is subject to these general objections, which are specifically incorporated herein.

INTERROGATORY NO. 1

Identify, stating the name, address, and last known place of employment, each and every individual who prepared the responses to these interrogatories and/or assisted in the preparation of responses to these interrogatories and state the specific interrogatories with respect to which each such person provided assistance.

ANSWER NO. 1

Objection of Counsel: The Town objects to this Interrogatory on grounds that it seeks material protected by the attorney-client privilege and/or gathered and/or prepared in anticipation of litigation and/or trial and impermissibly seeks discovery into defense counsel's thought processes, mental impressions, conclusions, opinions and/or legal theories concerning the instant litigation. Notwithstanding this objection and without waiving the same, the Town states as follows:

Rhonda LaBombard
Town Administrator
Town Hall
21 Depot Square
Sheffield, MA 01257

INTERROGATORY NO. 2

Identify each and every expert that you expect to call at trial by stating:

- a. the name of the expert;
- b. the address of the expert;
- c. the subject matter on which the expert will testify;
- d. the substance of the facts and opinions to which the expert is expected to testify;
and
- e. a summary of the grounds for each expert opinion.

ANSWER NO. 2

The Town has not yet identified the experts, if any, it intends to call at the trial of this action. When and if a further determination is made in this regard, this answer shall be supplemented in accordance with applicable court rules or court order.

INTERROGATORY NO. 3

Identify each witness you intend to call at the trial of this matter.

ANSWER NO. 3

The Town has not yet identified the witnesses, if any, it intends to call at the trial of this action. When and if a further determination is made in this regard, this answer shall be supplemented in accordance with applicable court rules or court order.

INTERROGATORY NO. 4

For each of the persons identified in the previous interrogatory, please state the expected subject matter areas of the testimony of each.

ANSWER NO. 4

The Town has not yet identified the witnesses, if any, it intends to call at the trial of this action. When and if a further determination is made in this regard, this answer shall be supplemented in accordance with applicable court rules or court order.

INTERROGATORY NO. 5

Identify all documents or things you intend to introduce as an exhibit in any hearing or at the trial of this action.

ANSWER NO. 5

The Town has not yet identified the exhibits, if any, it intends to introduce at the trial of this action. When and if a further determination is made in this regard, this answer shall be supplemented in accordance with applicable court rules or court order.

INTERROGATORY NO. 6

Identify all individuals that sponsored or participated in the adoption of Bylaw §3.1.3.D.30, excluding those individuals who merely attended a public hearing in connection with the adoption of Bylaw §3.1.3.D.30.

ANSWER NO. 6

Objection of Counsel: The Town objects to this Interrogatory on grounds that it is vague, overly broad, unduly burdensome and is not reasonably calculated to lead to the discovery of admissible information.

Signed under the penalties of perjury this 7 day of November,

2013.

TOWN OF SHEFFIELD

By: 

As to Objections,


Joel B. Bard (BBO# 029140)
Katherine D. Laughman (BBO# 657250)
Kopelman and Paige, P.C.
Town Counsel
101 Arch Street, 12th Floor
Boston, MA 02110-1109
(617) 556-0007
jbard@k-plaw.com
klaughman@k-plaw.com

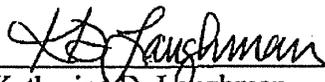
481610/SHEF/0017

CERTIFICATE OF SERVICE

I, Katherine D. Laughman, hereby certify that on the below date, I served copies of the Defendant, Town of Sheffield's Answers to Plaintiff's First Set of Interrogatories, by first-class mail, postage prepaid, to the following counsel of record:

J. Gavin Cockfield, Esq.
Kendra Kinscherf, Esq.
Davis, Malm & D'Agostine, P.C.
One Boston Place, Suite 3700
Boston, MA 02108

Dated: 11/15/2013


Katherine D. Laughman

NOV 20, 2013
PB meeting
attachment

November 12, 2013

*TO: Sheffield Board of Selectmen
Sheffield Town Administrator
Sheffield Planning Board
Sheffield Zoning Board of Appeals*

FROM: David West, 636 Silver St, Sheffield, MA

*RE: November 13, 2013 Information meeting
November 18, 2013 Special Town Meeting*

Board Members:

On November 13, 2013 an informational meeting concerning three articles on the Special Town Meeting Warrant will be discussed relative to the November 18 meeting. This letter is intended to advise you town officials that I shall attend both meetings to define and defend Article 2 for approval on Nov. 18.

I request a minimum five (5) minute time limit to present my request following the presentation by whomever shall chair or moderate the meeting. I further request that I shall be granted the opportunity to respond to questions or rebut false statements in open forum outside the five minute presentation limit.

I am apprehensive about the information meeting due to the fact that no format has been available as of the afternoon of November 12. Members of the Selectmen stated that the entire process of the issue, to date, will be explained relative to town officials actions. I am greatly concerned about what this means and what is their intent.

It would be prudent to not disseminate false or distorted facts. I am disgusted with the distortion of the truth, the half-truths, and the outright lies ad nauseam from Board members and private citizens on this matter. Any information presented had best be factual. If it is not then the source should be held liable. I hold myself to the same requirement.

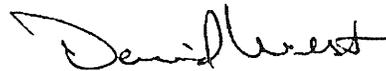
I question the apparent lack of preparedness for the dates of these meetings. Is it coincidental that there is no Selectmen meeting on Nov. 12 and the information is on the 13th, Wednesday evening, where there is not enough time for it to be printed in the Berkshire Record for the 14th? Is it also a coincidence that the following Monday (without the Record) is the date of the Special Town Meeting?

With two of the Sheffield Selectmen publicly supporting Article 3 it remains to be seen what they shall do when the voters approve Article 2.

I pray that these two meetings and what precedes them will be civil, honest, lawful, and honorable. It is unfortunate and shameful how democracy has been abused in this town I call home.

Respect, individual and mutual, should be given.

True respect is earned.



Respectfully, David West



Town of Sheffield
Zoning Board of Appeals
Town Hall - 21 Depot Square
P.O. Box 325
Sheffield, Massachusetts 01257

11/20/2013
PB Mtg Affidavit

Voice: 413-229-7000
Fax: 413-229-7010

November 15, 2013

TOWN OF SHEFFIELD
Notice of Public Hearing

The Sheffield Zoning Board of Appeals will hold a public hearing on December 12, 2013 at 7:00 p.m., 2nd floor meeting room, Town Hall, 21 Depot Square, concerning the application of Bayer Material Science LLC for a Special Permit, under the provisions of Sections 5.2.1 and 5.2.2 of the Town's Zoning By-laws to construct a new 4,850 square foot addition to an existing light manufacturing facility located at 119 Salisbury Road, Assessors Map 19 Block and Lots: 2-20, 21 and 27, Book 1122 and Page 177 in the Village Center District.

Any person interested in, or wishing to be heard on, this special permit application should appear at the time and place designated. If unable to attend you may send comments to: Zoning Board of Appeals; PO Box 325; Sheffield, MA 01257-0325.

A copy of the application, on file in the Town Clerk's Office, Town Hall, may be inspected Monday-Friday, 9:00 a.m. to 4:00 p.m.

Bart Elsbach, Chairman

Sheffield Planning Board



Town of Sheffield
Office of the Town Administrator
Town Hall – 21 Depot Square
P.O. Box 325
Sheffield, Massachusetts 01257

11/20/2013
PB Mtg
attachment
Voice: 413-229-7000
Fax: 413-229-7010
TTY: 800-439-2370

November 7, 2013

MEMORANDUM:

TO: Planning Board
Zoning Board of Appeals
Conservation Commission
Zoning Enforcement Officer

FROM: Rhonda LaBombard *RL*
Town Administrator

RE: Bylaw Review Committee

I am writing to advise that the Board of Selectmen is forming a Bylaw Review Committee and are seeking one member from each of the Boards and Commission listed above. This Committee will also have 2 - 3 members from the public.

Anyone having interest in serving on this Committee should submit a letter of interest to the Board of Selectmen. The Board would like to have this Committee appointed to start reviewing the bylaws by the beginning of January 2014.

Please contact me if you have any questions.



Town of Sheffield
Board of Selectmen
Town Hall - 21 Depot Square
P.O. Box 325
Sheffield, Massachusetts 01257

11/20/2013
PB Mtg
attachment
Voice: 413-229-7000
Fax: 413-229-7010
TTY: 800-439-2370

November 6, 2013

Jill Hughes
P.O. Box 84
South Egremont, MA 01258

Re: Zoning Board/Planning Board/Conservation Commission
Clerk/Assistant

Dear Jill:

I am writing to advise that, at their meeting of November 4, 2013, the Board of Selectmen voted to appoint you to as the Zoning Board/Planning Board/Conservation Commission Clerk/Assistant. The duties may be incorporated into your normal 30 hours per week. The compensation for all duties will be \$17.00 per hour.

Please contact Felecie Joyce, Town Clerk at 229-7000 Ext. 151 to be sworn in before conducting any official business for the Town.

You must complete an on-line ethics training program every two years, as required by the Massachusetts Ethics Commission. This training can be found at www.mass.gov/ethics/education-and-training-resources/. If you have previously taken this training, please contact Felecie Joyce to determine if you need to complete the training again.

Thank you for your interest in serving the Town of Sheffield. If you have any questions please call our office at 229-7000 Ext. 152.

Sincerely,


Julie M. Hannum
Chairman

JMH/ad

CC: Felecie O. Joyce, Town Clerk
Planning Board
Zoning Board of Appeals
Conservation Commission

Thanks for stepping forward to help us with these additional responsibilities.

This institution is an equal opportunity employer and provider.