

West Stockbridge Board of Appeals

West Stockbridge, MA 01266

5.7.20

7:00 PM

[Part one of two]

Record of Proceedings

Regarding a Public Hearing on May 7, 2020 at 7PM in a Zoom virtual hearing:

The applicants, Daniel Dus (prospective Buyer) and Sling Inc. (current owner), are seeking a Special Permit under Section 6.1.5 of the Zoning Bylaw for the continuation of a non-conforming use as a motel for property formerly known as the Williamsville Inn located at 286 Great Barrington Rd. The application and all accompanying information is available from the Town Clerk by phone or email request. All interested parties and those wishing to be heard have been invited to participate in this virtual hearing.

Board Members present: Randy Thunfors - Chairman, Dutch Pinkston - Vice Chairman, Joe Roy, Jr - Clerk, Jim Clary [abutter] - member, Thom Lipiczky - alternate member, & Liz DiGrigoli, alternate member.

Applicant present: Daniel Dus.

Visitors on Zoom [as identified by the Zoom windows]: Abby & Larry Pratt [abutters], William Keane [Broker for sale], Sheela Clary [abutter], Jason Dus [anticipated contractor for proposed project], Alice Whol, Kristen Piasecki [abutter], David Levin [abutter], Dana Bixby [Planning Board Chair], Brian Duval [Building Inspector], Julie Michaels, Edmund Fay [abutter], Louise Koral [abutter], and Mat & Michele Barnard. [abutters].

Randy called the meeting to order at 7:00PM.

Randy asked Joe to read the public notice for the record - which he did.

Randy announced that the Applicant's attorney [Peter Puciloski of Lazan Glover & Puciloski LLC of Great Barrington] would not be present at this hearing and that the Applicant would represent himself. Randy stated that that he had questions for Atty. Puciloski which included the fact that the application did not

include the required Site Plan. It also did not include signatures from the owner of the property, the Building Inspector, or the Applicant. He also noticed that the the contract for sale included in the application has expired. For this board's clarification, these questions are asked to be resolved so it is clear that the correct people are answering the questions that arise in this hearing.

Daniel Dus responded by introducing himself and stated that in a recent email, he should have the revised application signed by both the seller and the buyer. He stated that he understood that "...the use is conforming..." and has been historically. He clarified that he is the prospective buyer and managing director of Shared Estates Assets Fund. He noted that The Building Inspector did not sign the application or the contract, but did sign an email stating that the property was inspected and that this Special Permit process is unnecessary because the property is licensed to operate for the requested use. Mr Dus further stated that they are interested in maintaining the special use permit.

Randy acknowledged that after his discussions with Atty Puciloski and The building Inspector, he understood that the Building Inspector felt that there was no need for a Special Permit because he has been updating the former licenses which are up to date. However, Atty Puciloski still feels the need to go forward with the permitting process which we've scheduled to proceed.

Randy asked Mr Dus if there is a document showing an agreement to proceed with a purchase. Mr Dus responded that There is a Letter of Intent in place.

William Keane identified himself as "Daniel's broker" and verified that the seller did sign the application. Randy asked if the signatures requested were on the application and were they emailed to him and the answer was affirmative.

Randy then turned to introducing the board members and pointed out that one member, Jim Clary, was also an abutter. He asked the Applicant if he'd like to ask Jim any questions or if he had any desire for Jim to recuse himself. Mr Dus responded that there were no questions or any reason for recusal. Randy asked Jim if he could remain objective to serve at this hearing and he replied that he could. Randy then named the "participating" board members to be himself, Joe Roy, Dutch Pinkston, Jim Clary and Thom Lipiczky. Liz DiGrigoli is an alternate member and was asked to stay on as a non-voting member for the hearing.

Joe asked that all non board members present please mute their devises until they were recognized by The Chair to speak.

Randy then asked Daniel Dus to begin with his reasons for his application.

Mr Dus thanked all members of The Board for hearing his application and acknowledged that the property in question has operated "...as an inn, bed & breakfast and hotel..." for some time and remains in an R3 [residential] zoning district. His application confirms that the present use has been the case for an extended period of time. He stated the importance of the present use remain unchallenged in the future because they plan to invest heavily in this property as well as other properties in Berkshire County for use as "...luxury short term rental properties." He explained that he represents about 6 general partners in his group that formed a fund called "Shared Estate Asset Fund" for the purpose of property development. In 2014, they invested in a property they named "The Playhouse" in the Fox Hollow resort. The structure was in disrepair and they performed extensive renovations. The Playhouse became very successful to the benefit of the town of Lee in terms of the revenue it generated in the form of taxes & fees. He stated that The Playhouse is now the number one short term vacation rental in Berkshire County as listed [from over 600 properties] on VRBO & Air B&B. He said that it is the most rented short term rental with over 70% occupancy. Its success resulted in the expanded real estate fund for future investments. The Williamsville Inn would be the first property to use those funds, but his firm is targeting over 100 bedrooms in Berkshire County in the next three years. He went on to explain some of the improvements earmarked for The Williamsville Inn property.

Mr Dus stated that the description of the property's history of use as a bed & breakfast best matched the town's Zoning By-Law as it describes what a "motel" is ["short term rentals."] He stated that the use they hope to preserve is just that. He further described the intended improvement to make it a "high end" facility to encourage renters from more urban settings to enjoy the country setting in the Berkshires. He described things like "family reunions" as a typical rental setting.

He stated that The Playhouse has had no complaints from any neighbors in the past four years. He explained that the daily rental charge for this proposal would be \$2000.00 per night [for the entire residence] in most cases. He stated that they intend to source all labor and service locally. His general contractor [Jason Dus] also lives in West Stockbridge. All goods needed and purchased will be obtained locally as much as possible. He said that "...this property will be 100%

renewable.” It will consume only “green electrons” that they will purchase. Mr Dus has been in the solar power business in Massachusetts for years.

They have partnered with a company called “Small Change” - a company that seeks out investors [for as little as \$500.00 - to invest in properties like this] that can expect a return of around 8%. This option allows local investors to benefit from supporting a “green” business that has sustainability as one of its primary goals.

He pointed out that the purpose of this application is to certify that the use of the property as licensed and permitted be continued in a manner that it cannot be challenged in the future.

Mr Dus asked if there were any questions on his presentation so far.

Abby Pratt questioned the use of the term “motel” and stated that to her, The Williamsville Inn was not a “Motel.” Mr Dus agreed that it seems less than ideal as a term, but that “motel” best describes the basic expectation of the former use that fits with the future proposed use.

Randy interrupted the conversation at this point to explain that the procedure of the hearing is to allow the Board to ask questions first as the Applicant makes his presentation; and at the end of that portion, the meeting will open to the “public” for followup questions, which he would announce at that time.

Mr Dus then introduced Jason Dus, who would be the contractor on the job, to explain some of what his involvement would entail.

Jason Dus [Daniel’s cousin] introduced himself as a licensed contractor for 15 years in Berkshire County. He particularly focuses on the historical significance of a property. He pointed out that his first priority is to “...update mechanicals...” of this property. Then he will focus on the modernization of the interior and preserve and maximize the architectural exterior of the structures. There is no plan to alter the footprint any structure on the property. His focus will be sustainability, energy efficiency and preservation of the architecture of the structures.

Daniel added that the existing external pool and tennis court both need significant rehabilitation - which they intend to address. The plans include a large “formal garden.” There are many grape vines that they hope to reclaim.

Other improvements include resurfacing the driveway and parking areas with new airport mix.

That concluded Daniel's initial presentation.

Randy asked Daniel Dus if he has obtained all requested signatures and a signed building permit from The Building Inspector. Daniel replied that he did and has emailed it all to Randy. Randy asked what the Building Permit actually stated. Daniel searched his files and found a "certificate of inspection" which had the words "hotel/motel/boarding house" which expires on June 1, 2020. Randy mentioned the existence of other permits from The Board of health, but the ones that he has have since expired.

Randy read a permit from the Board of Health which reads "... to operate a recreational camp, trailer-coach park, inn, hotel or motel..." and pointed that for zoning purposes, this board would require more specific information than that. He pointed out that [to him] the term "motel" doesn't seem to describe The Williamsville Inn.

Randy asked if there were any other questions from The Board. Jim Clary asked how many units were involved in the proposed use. Daniel said there are currently nineteen bedrooms in the inn - some of which belong to a total of 14 units [some with more than one bedroom.] He pointed out that their expectation is best describes as "...two night minimum, all property." He added that the average stay is about 4-5 nights. There are some longer rental periods, but the average is 4-5 nights. Jim asked if any of the units would have "kitchenettes." Daniel replied that the rooms would be configured as they are now and there would only be the central commercial kitchen on the main floor. There will be no new or added plumbing, electrical or gas application in any of the bedrooms.

Randy asked if there were any plans to offer food service. Daniel replied that the expectation is that guests often hire caterers that might use the main kitchen to some extent, but there is no plan to offer food service to the general public.

Joe noted that one of the original purposes or "uses" of the Williamsville Inn [being food service] was being abandoned - that there would be no on-site restaurant or food service - no public sales. This represents an actual "change" from the former use. Joe would like more discussion on how that affects the

language in our Zoning B-Law. He will wait for further discussion to ask any specific questions. Daniel commented that even though there is no public "... farm to table..." food service, all existing food preparation facilities will be maintained for maximum compliance with food service on premises.

For purposes of clarification, Joe read from Section 2.2 [Definitions] of The Zoning By-Law:

Motel: A building or group of building, whether detached or connected units designed as individual sleeping units primarily for transients traveling by automobile with off-street parking facilities on the same lot.

[Copied and pasted - misspelling included - a revised version is in process]

Joe again read from Section 4.11.1.15 [Table of principal Uses] of The Zoning By-Law:

Businesses, Industrial and Other Uses

15. Hotel or motel as defined in this By-Law

Joe added that in the chart provided in The Zoning By-Law, these uses were only issued by Special Permit by The Planning Board and only allowed in a designated Commercial District.

Joe said the he sees Dana Bixby [Planning Board Chair] being present and would she offer any dialogue in this regard. Randy recognized Dana for any observations on this subject.

Dana added the By-Law description of "Hotel" as follows:

Hotel: A building with six (6) or more rooms in which lodging is offered to paying guests with customary hotel services including feeding in a central dining room or a transient on a transient or permanent basis.

Dana went on to mention her experiences and observations of the former Williamsville Inn as it functioned in recent memory. She concluded in saying that her best description of the actual "use" of The Williamsville Inn was from the definition of a "Hotel" as described in the Zoning By-Law. Based on that, she thinks the issue becomes one of "grandfathering." If it fit the description of "hotel," it should be able to continue as a hotel. She finds that the Applicant has found similarities in the the use of a hotel and the proposed use. She stated that since the proposed use no longer includes "customary services" of a

“central dining room,” of public food service, The Board of Appeals could consider a Special Permit for “change in use” and may find that a change in nonconforming use [without food service] involves no more nonconformity or found to be no more detrimental to the existing neighborhood [than the former nonconforming use.] She compared the proposed description use to more modern uses such as AirB&B or VROB situations. [One being typically rental of a room or two and the other more likely to involve a whole building/structure.] She pointed out the our zoning doesn’t disallow AirB&B rentals and that we do have provisions for hotels and motels. She concluded again that this Board could consider whether or not a proposed nonconforming use could involve no more nonconformity or found to be no more detrimental to the existing neighborhood than the former nonconforming use.

Dana also alluded to the “conditions” that could be imposed with the granting of a Special Permit. She didn’t think the cost of the rentals could hold up as a condition of granting a Special Permit, but noted that the proposed rental cost seems more likely to imply that the expense involved in the rental is more likely to rule out noisy parties or find the need to call the police for disturbing the neighborhood. She pointed out the the Building Inspector has a part in interpreting the ByLaws and he is apparently on record for that. She concluded her observations by pointing out that the neighborhood would be best served to assure that the proposed use should be as well run [in terms of peace and quiet] as the former owners of The Williamsville Inn.

Randy asked for any further questions from The Board. Jim asked if there is any specific indication for “maximum occupancy” on the proposed site - or if it was noted on the certification that The Building Inspector issued. Daniel said that there was none. Jim asked if there was any indication of such a maximum in their plan. Daniel replied that he is unaware of any number of guests at this time. He said that he’ll look into it and get back to us on that. He added that whatever occupancy limitations that might come forward would be complied to.

At that point, Dana asked to make a further observation that when The Williamsville Inn operated as a restaurant, it may have generated more traffic as a restaurant than it might under its proposed use. Daniel added that their existing operation [The Playhouse] doesn’t get rented to anyone under 30 years of age, and that the average age for renters is about 62. He also noted that it is likely that there will be more traffic than in the last few years [due to relative inactivity], but said that he’d expect much less traffic than a successful restaurant would generate.

Joe asked how things like "live entertainment" would be handled; especially outdoors where it could be disruptive to neighbors. Daniel answered by saying that they impose "quiet hours" after 10PM. The point is that possible generated decibel levels be considered "non-obtrusive" to any neighbors. He reiterated that they have never had complaints from neighbors. Besides using extra insulation for soundproofing, it is not their custom to rent for graduation parties involving any activities that might be loud or annoying. Their typical "party" rentals are more likely to involve things like 50th wedding anniversaries. He mentioned an anticipated \$1.5 million investment and will properly maintain the property and respect the neighborhood. They intend to be "long term" investors, and expect to be funded in part by local investors. He stated that they are "community minded."

Randy asked about how they handle wedding parties? Daniel replied that they usually have about 4-5 wedding parties in a year. They average between 25 & 50 people. They have a large barn-type structure in the rear of the [Williamsville] property that they will renovate to be used for yoga, exercise or something like a wedding chapel.

Randy also asked if there were any legal suits pending at their existing property. The answer was no. Randy asked if there were any violations brought forth from a Homeowners Association. Daniel replied that was never a violation filed.

Dutch Pinkston mentioned that he lives nearby the proposed site and noted that it was a popular wedding venue that had many noisy parties. He said that closer neighbors may have similar concerns. What would Daniel's policy be about loud parties with possible motor homes joining a party at this venue? Jim Clary followed up and asked if anyone remembered that the former owners were issued a limit on parties that produced excessive noise. Brian Duval said that The Select Board issued a limitation because of the Liquor License [that they issued.]

At that point, Randy asked Brian if he would weigh in with any observations on the application. Brian introduced himself as our Building Commissioner and Zoning Enforcement Officer. He said that the former owners [Royal Properties Group] were concerned about the possibility of losing the grandfathering of the property because they were actively trying to sell the property [not interested in renting the rooms.] He advised them that they needed to actively keep up with the needed inspections [of all kinds]. Brian performed all inspections each

year to maintain the status in each certificate. He mentioned that the Wendts had two certificates to maintain: one for the Inn and one for the restaurant. According to Brian, the one for the restaurant was not maintained, and it's his opinion that the restaurant use has in fact been "abandoned." But over the recent years, Brian has maintained all other pertinent certificates to retain the "grandfathering" of the non-conforming use - and he has never declared the use or the property as "abandoned."

Dana asked if there was an occupancy limit when the Williamsville Inn was a restaurant? If so, wouldn't that serve as some sort of basis to consider, for example, in the case of an event of some sort. Brian didn't know off-hand, but it could be found on their certificate or permit for the restaurant [which would have been determined by seating capacity.]

Randy mentioned that he is not aware of any current permits issued by the Board of Health, and asked Daniel if he knew otherwise. Daniel said that he thinks there is one for the pool, and that he would look into it and email it to Randy.

Randy then opened the meeting to the public.

Abby Pratt [from Water Street] said that she didn't think there was justifying reason to consider the property "grandfathered" for a number of years. They have not been serving meals or having guests. She added that she isn't opposed to the proposed new use, but feels that it should be considered as a new "permit" for the operation as it is in a residential zone.

Julie Michaels [from Water Street] said that she does not object to the proposed new use, but is sad that there will be no restaurant, which has always been considered a wonderful part of the neighborhood. Daniel Dus responded by saying that their model is to provide a high end venue with the lowest possible overhead. Having a restaurant there doesn't fit their business plan.

Kristen Piasecki asked to clarify the rent per day. Daniel explained that the \$2000.00 rent was for the whole property - not per room.

Julie Michaels asked about renting to corporate events as opposed to family events. Daniel replied that they rarely have corporate activities.

Joe Levin [from Water Street] asked about any "supervision" on the property during occupancy. Daniel explained that there are perimeter cameras all over the property that record all activity. There is full time housekeeping available at all times if needed. Daniel said that the biggest issue at The Playhouse is folks parking on the grass. He also mentioned that all renters have to obtain an insurance policy to be in effect during their stay.

Sheela Clary was curious about the size of the property. Daniel answered that the property is ten acres in size. He said that there are hiking trails that go up toward Tom Ball Mountain. He mentioned that there are plans for a sculpture garden trail in the rear of the property.

Mat Barnard [he & his wife Michelle are direct abutters across Rte 41] asked The Board if there would be a "plot plan" that they would be able to see. Randy stated that a "site plan" is actually required on the application and thus far has not been made available for board members [or anyone] to see as of yet. Randy asked Daniel what the status of that is and Daniel replied that it has not been made available to him as of yet. He said that he would get "the plot plan" to us as soon as possible. He mentioned that it will simply confirm that there will be no footprint changes.

Matt Barnard explained that the two entrances and the most frequent parking places have cars that shine directly into their house [at night.] He stated that with the advent of remote "car starters", headlights shine directly into their living room while cars are warming up in winter [and cooling down during the summer months.] He is concerned about parking configuration. He also reported that they were notified by the former owners that The Inn was "allowed" four outdoor functions a year [such as weddings.] The Wendts observed that limit relatively well, but during those events, the noise was often quite invasive and annoying. He inquired if there would be any limit to such events or any way of controlling them. Daniel replied that he understood how the parking [in front] could be annoying to The Barnard residence and would make sure that was addressed in their plans. Matt pointed out that no matter where the vehicles are parked, please be aware of where the headlights will be facing because there are neighbors in most directions of the current parking arrangements. Matt then brought up that Daniel mentioned that he is a solar developer and asked if there are any plans for solar installations on the site. Daniel replied that the positioning of the structures and shape of the roof isn't conducive to solar installation. He said that there are too many trees and he doesn't want to take away from the aesthetics of the property. Their plan is to purchase electricity from nearby

solar installations [not on the property.] One last thing Matt mentioned was that if the plans call for perimeter surveillance cameras, do they have to be trained on his front yard? Daniel replied that he can assure everyone that on site cameras will be focused “into” the property; not out of it.

Joe Levin asked if Daniel operated any other facilities that he could look at? Daniel said that he would supply to Randy a link that gives information about “The Playhouse” on the Lee/Lenox border. It illustrates the quality of the restoration.

Abby Pratt mentioned that at the end of Water Street, there is a footbridge that crosses The Williams River [that is private property,] and that guests of the former Williamsville Inn were told that it was available to them. She respectfully acknowledged that an occasional neighbor is welcome to use it, but it should not be referred to as an attraction for residential visitors. Daniel replied that the private bridge would not be on their list of recommended walks for their renters.

Dan Koval asked if there were any plans to put up additional fencing up on the property. Daniel’s reply was that there were no plans for “fencing” as such, but they plan to use landscaping as natural buffers where needed. He pointed out that there is an intention to screen the interior of the property so there to enhance privacy in the property. He also anticipates some screening at the front of the property along Rte 41. Some fencing will be removed and be replaced by some sort of hedgerow. They do plan to replace the old fencing around the pool for safety.

Someone[?] asked what the place will be called. Daniel mentioned that the current plan was to call it “The Freeman” after Elizabeth Mumbet Freeman, a local woman who fought for the freedom that we all enjoy [also for the many good things that she stood for.] They also intend to donate 1% of profits to The Elizabeth Freeman Center in Pittsfield.

Abby Pratt mentioned that Williamsville also stands for The Williams family in Stockbridge that also founded Williams College [in Williamstown.] See suggested that they might consider calling it The Freeman at Williamsville, which Daniel seemed happy to consider.

Matt Barnard wanted to discuss more about traffic. His question was regarding what “seasons” seem to attract the most business for the proposed new

business. Daniel said that for the most part, the traffic flow to their existing venue [The Playhouse] is relatively consistent through most of the year. He said that it books about 8-9 months ahead. He did say that The Playhouse is most heavily booked in June, July & August. The rest of the year it's booked solid on weekends. Heavy booking typically follows what he called "The Tanglewood Season." Matt replied that The Williamsville Inn had very little activity over than the typical summer months. If "The Freeman at Williamsville" were to be booked 52 weekends a year, that would certainly constitute a greater impact on the neighborhood. Daniel said that the greater success of his project will also contribute to a greater extent than previous owners of the property in terms of tax revenue.

Julie Michaels asked how they advertise. Daniel said that they advertise exclusively on VRBO at the moment.

Kristen Piasecki added that there is a potential number of 28 guests from the 14 units that exist presently. She is concerned that is a high number of people on site without anyone on the property to manage the business. Daniel replied that this is a valid question, but it has never posed a problem at The Playhouse in four years. He added that are numbers available to call if needed.

Kristen also asked what is the maximum number of guests at The Playhouse? Daniel replied that the average number is about 12-14 people at a single stay. He added that if there are more than that, they often charge more. It's usually half children & half adults.

Abby Prat suggested that if she had a party of two from her family, that would likely be something that he could NOT accommodate? Daniel said that they will often make exceptions for small parties to friends or family that need a favor - especially if the booking is slow or if the space is empty. It is often offered at no charge. Abby asked about breakfast and Daniel replied that are no "formal" meals offered in the plan at this time.

Eddie Fay [abutter] from Samatha Lane asked about possible sound issues during the day. Are there any accommodations for excessive noise for outdoor activities before 10 or 11PM? Daniel said that they would obey and decibel limitations set forth by the town. He also mentioned that in their contract they have what he called a "good samaritan" clause that asks for behavior appropriate to the neighborhood [by being a good neighbor.]

Matt Barnard asked Randy what the procedure is at this point? Randy repeated the basic hearing procedure as: 1. The Applicant presents his case, 2. The Board asked questions, 3. The Board hears from interested parties, 4. The Board deliberates and, when it has all the information it needs, present voting members vote on the request. He said that once the public portion of the hearing is closed, The Board deliberates. It may ask more questions of the Applicant or other interested parties, and then ultimately votes.

Louise Koval [abutter] asked that if the permit were granted, when would construction begin? Daniel said that the original plan called for immediate action, but because of the complications of the coronavirus, obtaining materials is presently unpredictable and the best guess at this time would be around late summer this year.

Randy closed the public portion of the meeting and said that he had a couple questions for Daniel. He spoke of the application calling for a Special Permit, which Brian Duval said was unnecessary because he already possesses a permit through him. However, Daniel's attorney has specifically requested a Special Permit. Randy asked that Daniel help him decide which process to follow.

After summarizing his understanding that certain rights are protected as per the Building Inspector, a Special Permit would solidify an understanding with this Board for all the things that he has put forth about their intentions with the property and the use.

Randy summarized the information as he understood it. The original business had a restaurant, a bar, and offered rooms. Over time, the restaurant & bar were dropped and now the main offering is rooms and access to the property. The application calls the use that of a "motel," and we all have a very different vision of what a "motel" looks like [and this doesn't fit the description.] To sum up, said that Daniel is seeing the right to continue only the "inn" portion of what took place here before - not the restaurant or bar - but just the rooms. Daniel agreed. He said that the times are changing. AirB&B and VRBO didn't exist when these By-Laws were drafted. They offer a unique set of circumstances. His goal is to describe the proposed use of the new business and would like this board to show that it agrees with his plan as he presented it.

Randy again summarized Daniel's request by stating that only maintaining the right to move forward with just "rooms to rent" is in conformance with our zoning By-Laws, even though the new preexisting nonconforming use is different in extent to the proposed nonconforming use as presented in this

application. Or, more simply, that the new use would be to only continue the former use as a "motel residence." Daniel agreed. Randy asked if Daniel understood that by going ahead with this Special Permit application, this board could impose special conditions that would be pertinent to "...whatever happens there." Daniel said that he did not know that. Randy mentioned that some conditions might be in reference to "...lighting, screening..." or natural buffers like evergreens along the front of the property. Daniel relied that he has appeared before various boards in the past [with his solar business] that required things like screening and the like.

There was further discussion about some of the similarities and differences of the former use as compared to this new proposed use.

Randy then commented that the conversation may include comparisons of the two uses and whether or not the new one could be considered more [or less] non conforming. Daniel replied by stating that his firm believes that this the best use for this property. He said that this property would never work well as a residential property. He said that it will generate more revenues for the town in this new use. He reiterated that it will have "...the least amount of impact" on the neighborhood since it will leased to one renter at a time - [Implying that, as opposed to 14 renters as well as multiple diners at a time.] He also implied that most other uses would not support the property as well as his. It has gone through decline, bankruptcy and various forms of non-use and his plan will give it an uplift beyond recent memory.

Randy pointed out that the application calls for action under 6.1.5 [which deals exclusively with "abandonment."]

6.1.5 Abandonment

Any nonconforming use which has been abandoned or not used for two (2) years or more shall not be reestablished, except by special permit from the Board of Appeals, and any future use of such premises shall conform to the provisions of this By-Law.

Following the language for a "change in use" in the By-Law, Randy read the following:

6.1.2 Requirements for Extension, Reconstruction or Change in Use

The Board of Appeals may authorize by a special permit any extension, alteration or reconstruction of a non-conforming structure to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, provided that no such extension, alteration, reconstruction, or change in use shall be permitted unless the Board of Appeals finds:

- a. That such change, extension, or alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood; and
- b. That such extended, altered, reconstructed structure or changed use shall not be in greater nonconformity with open space, yard, and off-street parking requirements of this By-Law.

Joe agreed that following the language of 6.1.2, this Board could create a path to discuss how to proceed with findings that deal with the objectives of both The Applicant and the neighbors. However, Joe pointed out that we still need a site plan as required in our application.

Daniel began writing to Peter Puciloski [his attorney] to provide a site plan.

Randy reviewed the fact that the application presented was vague and missing important information. We now have the needed signatures and are referring to the correct By-Law. We still need the site plan. He also pointed out that any of us could go have a look at the property to understand it better. There are no plans to add footprint to any structure or to add anything in the way of a new structure[s]. He mentioned possible consideration to act on the the application immediately with the understanding that a site plan would show allowances for things like camera angles, downlighting, screening, landscaping, and subjects that have come up during this hearing from the neighborhood.

Dana added that the site plan might show things like screening, parking spaces, and other considerations from neighbors during the hearing. Randy commented that one of his concerns is the "commercial kitchen" that might be used by caterers, which indicates the possibility of large parties for things like weddings that might involve large groups of people and guests. Those situations are part of the concerns that we heard in this hearing so far.

Joe discussed the difference between a plot plan and a site plan. A plot plan might be part of a deed search or an assessor's map - but a site plan shows things like flood plain and wetland limits, septic system placement, wells, as well as any and all of the proposed changes that are in the plan such as entrance curb cuts, parking configuration, camera placement, screening, new fencing for the pool, landscaping, signs, and the things that affect the concerns of some of the neighbors - things like guest limits, number of parked cars, quiet zones and sound buffering, current letter of intent, any form of Building Permit, current Board of Health permits - all of which had come up during the hearing.

[Clerks note: not "all" of the above items in the previous paragraph were specifically stated in the hearing, but would be of interest to this Board.]

Randy asked Daniel if he would have any objection to the possibility of running past our 65 day time limit from the date of application [if that becomes a factor.] Daniel said that he did not object to that.

After some discussion about a motion to reconvene on May 14th at 7PM for a site plan and any additional pertinent information, Joe moved to do so. The motion passed unanimously. Randy reminded the board members to visit the site before next Thursday the 14th.

The hearing adjourned at 9:02PM to reconvene on May 14th at 7PM.

All submissions by The Applicant will be marked and submitted to The Town Clerk.

Respectfully submitted,

Joe Roy, Jr

Clerk

West Stockbridge Board of Appeals
West Stockbridge, MA 01266
5.14.20 7:01 PM

Record of Proceedings

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Board Members present: Randy Thunfors - Chairman, Dutch Pinkston - Vice Chairman, Joe Roy, Jr - Clerk, Jim Clary [abutter] - member, and Thom Lipiczky - alternate member.

Applicant present: Daniel Dus

Visitors on Zoom [as identified by the Zoom windows]: Abby & Larry Pratt [abutters], William Keane [Broker for Applicant], Kristen Piasecki [abutter], David Levin [abutter], Brian Duval [Building Inspector], Mat & Michele Barnard, [abutters], Mary Levin, Banyon Bourla, Jack Houghton, Gerald Elias, Cecily Patton, John Perkel, Julie Jackson, Phyllis Vinemac, Sharon Pickard, Mary Kornman, and Joseph Levin.

Randy called the meeting to order at 7:01PM.

Randy pointed out that the original application was missing requested information. He mentioned the absence of the required Building Inspector's signature and a plot plan for the proposed property from a licensed surveyor. He asked Daniel if these things have been submitted. Daniel replied that he requested the Building Inspector signature, but has not received a reply as of yet. He also replied that the current owner of the property has a Plot plan, but

has of yet been unable to produce it. He did state that he sent an Assessor's Map of the property and a Google Earth image of the property which identified the proposed improvements.

Randy & Joe re-announced that all visitors please mute their audio unless recognized by The Chair. At the end of the last meeting, the "public portion" of the meeting had been suspended.

Randy asked if the Board was willing to accept the submitted plans in place of a professional site plan as requested.

Dutch explained that without a proper site plan that describes such things as parking, lighting, exterior placement of things discussed, he is unable to understand what is proposed. Thom stated that in the latest submission, that it addresses some, but not all concerns of this Board [and himself.]

Randy suggested that the Board could decide now about the site plan, or have a discussion and decide later in the meeting.

Joe read from the Application on Page two where it says in Bold Caps that "A PLOT PLAN PRODUCED BY A LICENSED SURVEYOR IS REQUIRED BY THE ZBA." Brian Duval [Building Inspector] said that he received a request that day, but did not have a chance to submit his signature [which he will do soon.] Since the last meeting, Brian did send an email to Randy which contained his comments regarding the status of the property.

Randy went on to report that he had requested the missing information to Atty Peter Puciloski [representing the buyer] and was told that it would be forthcoming soon. After a brief discussion, the Board decided to hear what was available at this time first, and then decide if it was enough to vote on and whether or not to postpone another week for more information.

Randy had just received an eight page document from Daniel [on the 14th] containing a description of the property to some extent. He reiterated that information like that is best presented with the application - not at the end of the hearing. In the future, it needs to accompany the application.

Randy then suggested that we re-open the meeting to the public since we have received more documentation from the applicant and from various neighbors

and abutters as well. The board unanimously agreed to re-open the public portion of the hearing.

The first letter that is to be admitted into the record was from Brian Duval [Building Inspector.] Dutch had a copy and read it into the record:

~~~~~

|                            |
|----------------------------|
| Wed, May 13, 10:59 AM      |
| <b>Brian Duval</b>         |
| to randythunfors, joeroyjr |

Randy,

I just wanted to make the board aware that as of today's date I still have not been in contact with the applicant and have not received the application to review and comment on.

I will send you my comments so you can share them with the board so they will be ready for Thursday's meeting. ( I hope Joe will be sending out an email with the link)

The applicant stated that there was plans to do substantial renovations to the structure, that being said, the Williamsville Inn had been sited with a building code violation from the previous inspector (10 years ago) for have observed that there was no second means of egress from the second floor of the main building. The owner's had sent me a proposal for a "compliance alternative" to allow this condition. They were to install an offsite monitored fire alarm system and they were it install portable fire extinguishers in each sleeping room. This proposal was excepted by the town and a copy was submitted to the Board of Building Regulations and Standards as well for their records.

The current Building Code requires these items currently in the code, so they really are not alternatives.

My recommendation to the board would be to see if they could design a new second exit from the second floor as part of their remodel. If they could not find a way to design one, then a suitable option would be to install an automatic fire sprinkler system on the second floor. They would not have to provide coverage to the entire building at this time.



This recommendation is not mandatory, just something I feel the board should be made aware of if they are to condition a special permit.

Brian Duvall

~~~~~

Randy asked Brian if he had any comments as a follow up, and Brian replied that if they were to conduct renovations, now would be an ideal time to correct the violation.

Randy asked if Daniel had a reply to Brian's recommendation. Daniel explained that this was all news to him. The Seller had not brought this to his attention. He stated that his reconstruction budget doesn't include allowances for any of these items. He said that his assumption was that this structure was grandfathered as is. He pointed out that the only structural work in the project is the removal of the wall between the kitchen and adjoining former dining room. Everything else is strictly cosmetic. Anything beyond that would be prohibitive and would force them to abandon the project.

Randy commented that requiring building code violations is beyond this board's purview, but since the letter came in, we are required to enter it into the record.

Brian noted that the meeting can proceed, but just wanted this board to be aware of this recommendation.

Randy brought forth a letter from Alice Wohl. He summarized it and stated that she objected to the naming of the proposed new venue as "The Freeman," in honor of Elizabeth Freeman because she was associated mostly with Stockbridge and Sheffield. She suggested that it continue with the original name of "The Williamsville Inn." For the record, the contents of her letter follows:

~~~~~

## Williamsville Inn Project

Sun, May 10, 11:19 AM

**Alice Wohl** <wohlx2@gmail.com>

to randythunfors, joeroyjr

Dear Mr. Thunfors,

As a resident of Williamsville, I greatly appreciated listening to the ZBA meeting on Thursday regarding the project for the Williamsville Inn.

I thought Daniel Dus was impressive in his command of the information and the way he addressed the meeting. I really like the fact that he is from Berkshire County and his cousin & partner lives up the road, and I had the impression that they have thought everything through and planned every aspect very carefully. I wound up feeling that we probably could not hope for a better use of that property which is so central to the village.

However, I have one strong objection, and that is to the proposal to name the place The Freeman. Although I have a personal reason for objecting, I think my reasoning is valid generally. I have canvassed the various neighbors that I know and so far they all agree strongly. I had planned to circulate a petition in favor of rejecting the name The Freeman in favor of the historical name of the inn, but since I hear that a group is already planning to raise issues concerning large gatherings, I am writing to you directly.

The reason for my objection is this: Elizabeth Freeman, or Mumbet, is powerfully associated with only two places, Sheffield where she demanded her freedom, and Stockbridge, where she lived all her life after she got it, and where she is buried with the family of the lawyer who argued her case. She had nothing whatever to do with Williamsville. Most people in Berkshire County, and especially black people, are aware of that and would regard it as exploiting rather than honoring her hame to have it associated with a very upscale lifestyle project that is certainly not addressed to a black clientele.. At the same time, everyone in the county knows the name of the Williamsville Inn, and it is a landmark. Moreover, it is a perfectly suitable name for the type of hospitality the project envisages. However, we would not object to any name other than one associated with Mumbet.

I would like also to inform Daniel Dus directly of our objection and would be glad to discuss it with him if it were proper for you to give me his email address, or for you to provide him with mine.

Thank you very much for your attention.

sincerely,

Alice Wohl  
12 Long Pond Road

~~~~~

Randy brought forth a third letter to The Board from David Levin. Joe was asked to enter the correspondence into the record. It was attached to an email which read as follows:

~~~~~

## Letter from the Williamsville community to the ZBA re: Dus motel permit application

|                                   |
|-----------------------------------|
| May 12, 2020, 6:55 PM             |
| <b>davidedwardlevin@gmail.com</b> |
| to randythunfors, joeroyjr        |

Randy & Joe-

Attached please find a letter, written in cooperation with a number of the members of the Williamsville community. We wanted to get this to you in advance of the additional discussion we understand is planned for Thursday. Please confirm if this email constitutes appropriate submission or if I should send it to the ZBA in a different manner.

I'm happy to discuss the issues raised in the letter at any time, and happy to participate in the meeting Thursday, to the extent one is indeed planned.

Thank you.

Regards,  
David Levin  
5 Water Street  
917.734.7691

The actual letter reads as follows:

David Levin  
5 Water Street  
West Stockbridge, MA 01236

12th May 2020

Zoning Board of Appeals  
C. Randolph Thunfors, Chair  
Joseph G. Roy, Jr, Secretary  
James Pinkerton IV, Member  
Jack Houghton, Member  
Joseph G. Roy, Jr, Clerk  
James Clary, Member  
Elizabeth Digrigoli  
Thom Lipiczky

Members of the Zoning Board:

We attended the Zoning Board of Appeals (ZBA) meeting May 7th (via Zoom), and were pleased to hear Mr. Dus describe his plans for the Williamsville Inn property, and his stated strong concern for the surrounding area and community. Restoring the property and grounds, and generating tax revenue for the town, are certainly beneficial.

We continue to have concerns, however, about the potential for frequent activities on the property that could generate substantial car traffic, late-evening noise, and other disruptions of the peace of Williamsville. As Mr. Dus is seeking a special permit to operate as a motel, we ask the ZBA to consider the interests of the Williamsville community, and to institute defined guardrails to ensure the use of the property in a manner consistent with the needs of the surrounding residential neighborhood.

When operated as an Inn, the innkeeper was a resident of the community, and present for activities on the grounds of the Inn. In the current proposal, no such individual will be present, and no community engagement by the owners is proposed. We propose that the following guidelines be considered by the ZBA, and, as appropriate, adopted into the special permit:

- No outdoor activities / events or music will be allowed after 10 p.m. or before 9 a.m..
- No cameras shall be maintained that permit off-site viewing of the property's boundaries.
- No high wattages outdoor lights shall remain lit after 10 p.m.
- Parking shall be established such that headlights do not shine directly on the neighboring homes.
- The owner shall insure that there is a representative present on the property for any events attended by more than 30 individuals. This representative shall be responsible for ensuring that attendees abide by the regulations contained in the permit.
- No more than a preset number of events with an excess of 30 attendees shall be permitted each year (4 - 6). No events shall be held with an excess of 100 guests.

- The property shall not be used for any commercial activities beyond its stated purpose.
- The onsite kitchen shall not be used for purposes of catering any offsite events.
- No expansion of the residence's current capacity shall be made without seeking an additional permit.
- All modifications to the property shall be completed in a manner consistent with the historical appearance of the Inn.
- If possible, the property shall maintain its historically significant name, The Williamsville Inn.

We appreciate the diligence with which Mr. Dus has designed his plan for the Inn, and hope the ZBA will establish thoughtful guidelines, ones that will allow the new owners to become welcome and thriving members of the Williamsville community.

Sincerely,

Matt & Michelle Barnard  
 Sarah & Dan Bourla  
 Gary Burke & Phyllis Vine  
 Anna Castellani  
 Sheela Clary  
 George & Lin Cox  
 Gerald Elias & Cecily Patton  
 Eliza Hewat & Susan Weinberg  
 Mary & Peter Kornman  
 David & Kara Levin  
 Mary Ellen & Joseph Levin  
 Julie Michaels  
 Kristin & Jon Piasecki  
 Sharon & Irving Picard  
 Abby & Larry Pratt  
 Mary Rivers  
 Elizabeth Roberts  
 Ellen & Lenny Tabs  
 Carter White  
 Alice Wohl  
 Matthew & Tessa Wohl

~~~~~

Randy asked if there were any comments on the letters.

Thom mentioned that Mrs Wohl's letter was beyond the control of this board. But the letter from Mr Levin brings up many of the concerns that came up in the first meeting and would Daniel care to comment on any of them. Joe agreed.

Daniel thanked Mr Levin. He said many of the comments were well taken. He agreed with concerns about lights and cameras, for example - he added that he would be strict about staying in the marked parking space as defined by the new "airport mix" topping planned for the existing parking lot. He said that they are "fine" with not expanding the existing 18 bedrooms already present on the premises. He mentioned that they impose a 10PM "quiet hours" limit already. He then stated that some of the articles in the letter would make the implementation of their business plan impossible. Their plans to improve the property have already maximized their available funds. Things like having an employee "on site" for some events does not fit in their business plan. He said that they really can't ask renters to be "in the buildings after 10PM." He also pointed out that once they offer the property for weddings, the "100 guest maximum" would be impossible for them. He pointed out that limiting the number of weddings would not be "fair." He said "...the event limitation would be a non-starter for us..." He maintained that their use of the property would be "significantly less" than the potential use of the restaurant that was there because the restaurant could seat up to 90 people at its max. He also expects the property to be empty for about 200 days per year. He stated that the reason that this property has been empty for 4-5 years is due to the fact that the property is complicated, the bathrooms are very small, and the ceilings are very low since it was built in the late 1700's - all of which makes it difficult to make good use of this property. He ended his observations by pointing out his eagerness to "be a good neighbor" by acknowledging that many of the neighbors' requests are valid and workable - in addition to the fact that he has many relatives in the Berkshires and West Stockbridge and plans to recommend [and employ] as many local vendors as possible.

Randy then suggested that since the introduction of all of this new information, would the Board consider opening up the meeting for further public conversation? Board members agreed and Abby Pratt had her hand raised. She described the former Inn [before The Wendt's] as a "...lively, warm community kind of place." The restaurant did a good business. She further stated that it was a charming place run by people who loved their business. She expressed concerns that for larger events there is no provision for staff on site.

Daniel described his business model as one that enables those events to be "intimate" for the renters. He said it would be "awkward" to have an employee present at a "...tiny little intimate gathering..." like a ten person wedding. He said that his business model is about efficient and low cost operation.

Abby pointed out that in cases of emergency, what can someone [from out of the area] do without knowing who to call for help?

Daniel reported that at their other venue in Lee, they have never had a complaint or an emergency to deal with in four years of operation. He also pointed out that many Inns in the area are for sale. He stated that that type of Inn is not attracting guests anymore. The value of a standard inn experience is not as great as what his business model has to offer.

After some discussion about the cost [or desire] to have some staff during events, Randy asked Brian Duval if he knew the process for obtaining permits for large gatherings [if any.] Brian answered that it was not his office. Other than tents for parties [over 700 sq ft], he doesn't issue permits for large parties - maybe the Select Board. He mentioned that permits that serve alcohol typically are issued by The Select Board. Randy commented that there were some "wedding event" locations in Stockbridge at one time that grew into problematic issues and had since ceased operations.

Joe mentioned that over the years, this board had issued permits that involved uses of limited size - only to become much more involved and invasive to its neighboring properties. These issues become the reason that it is wise to place limits and conditions on specific uses. The question raised is exactly how does an issue be resolved if problems evolve over time? Not just for the neighbors, but what responsibility does this Board or the Town have when issues arise? Joe reminded that there were reports of very annoying wedding parties even from the Williamsville Inn during its operation. Randy also reminded everyone that in this case, the proposed use is located in a densely populated residential neighborhood.

David Levin commented on the letter he submitted and Daniel's responses. One of his main concerns is that the venue is proposed as an intimate gathering place for limited family events, but there is no allowance for limiting its use for large, "limitless" gatherings with no on site guidance or control.

Daniel commented that with 18 bedrooms, some of which are part of suites with extra beds for children, some parties could easily become a group of 45 to 55 family members alone. The structures alone are in excess of 12,000 sq ft of space. He suggested that the property use is probably limited to size and type of event already and thinks that the existing regulations are sufficient. He stated again that because of the size and extent of their investment, his business plan would make further limitations and expenses prohibitive. He stated that limited uses are part of the reason that there have been bankruptcies and difficult times for former owners of the property. He said that having limits "...complicates our ability to operate under the model..." He said that he understands the concerns, but thinks they should be allowed to operate within their business model.

David Levin replied that anyone in the neighborhood could apply for a permit for a large event, but their properties are not listed and promoted as "event places" and would not be expected to have unlimited access to large event activities. The neighborhood has never been subjected to unlimited large events with unlimited amounts of attendees. He didn't think anyone in the neighborhood would want that type of exposure.

Daniel disagreed with the characterization that neighbors wouldn't want to live next to an "event space," because it is an event space and has been for years. He stated that the use he proposes will cost approximately \$10,000.00 per month to operate and it has to be covered in some way.

Abby interrupted and described what might be a disruption that disturbs the neighborhood and asked what she should do with no-one on site to control some activities. Daniel said to call the police. It was at that point that Abby declared that she is opposed to the granting of this permit.

Irving Picard [who lives next door on Samantha Lane] stated that he had a question about the number of proposed parking spaces. Daniel replied that he was not going to be painting parking spaces in the parking area. He said that he was not "paving" the parking area and that he planned to resurface it with airport mix. Mr Picard asked where the "excess parking goes" for a large event? A Daniel explained that parking would be arranged by the event planner. Mr Picard explained that Samantha Lane is private and no one wants people parking on it from an oversized event next door.

Matt Barnard added that former owners would come to his home [across the street] to ask permission to allow staff to park on his property because the Inn could not handle the amount of cars that come for a large wedding. He said that as an abutter, parking plans would best be described on a Site Plan that actually shows the number of parking places on the proposed property.

Daniel offered to show the brochure that he sent in earlier that day. [See "Exhibit A" submitted separately]. It's appearance is one of an 8 page brochure which includes an arial photo of part of the property, information on the construction plan, a map showing the location, a description of the mechanical and aesthetic improvements, a picture of the existing commercial kitchen, a brief history of the property, a dialog of what the grounds offer [gardens, grape vines, stone patios, the 2 story barn - with photo - to the rear of the property, tennis courts and pool, hiking trails and an assessors map of the property showing some neighboring abutters.]

On Page 5 was a "Site Plan" comprised of a photo of the tennis court, the driveway, Rte 41 [Great Barrington Road], some gardens, the rear patio and it indicates the planting of some hedges along the highway, stone columns

flanking the driveway, and some improved landscaping and a new sign on an additional photograph.

The brochure goes on to describe what's called a "Project Timetable" from closing date in May to "ready for rental" in September of 2020.

The brochure ends with language described as "forward looking information" regarding the projected financial performance of 'the Fund,' its vision, and future investments - all of which allows possible investors in "Sea Fund," which is an asset fund called "Shared Estates" like the one in Daniel's application for The Williamsville Inn property - including disclaimers to update future "forward-looking statements."

Daniel asked if he could share his computer screen so everyone could see it. Randy approved. While he did that, Matt explained that when he purchased his home [across the street,] he did so based on the fact that he understood that there would be no more than 4 wedding-type events [per year] at The Williamsville Inn. He described his household as one of "working folks" who get up at 5AM to start their day, work hard, come home tired, and learning that there may be a commercial business across the street with permission to offer an unlimited amount of large events with a unlimited number of people attending is beginning to sound "unnerving."

After sharing his screen showing the submitted brochure of the proposed property, Daniel explained that he was unaware of any limitations for a hotel/motel use regarding large events, and that it was for that reason he showed an interest in this property.

Matt interrupted by asking The Chair if any special conditions would be noted at the Registry of deeds, like there were when he and his wife applied for a Special Permit to have a horse on their property. He wondered if any permits for having wedding events at The Williamsville Inn high be registered there as well.

Randy answered that when a Special Permit is granted, it is recorded at the Registry of Deeds, but only that it was granted - there is no mention of "conditions" in the recording, but the record of events regarding the Special Permit is recorded with The Town Clerk.

Matt suggested that if there was a cap put on the property at some point that is recorded somewhere, it should be found and applied in this case.

Neither Randy or Joe could recall ever acting on a Special Permit regarding special conditions for The Williamsville Inn [the business.]

Brian added that Special Event permits are granted by The Select Board and are not recorded with the Registry of Deeds. Special Permit results are recorded with the Registry of Deeds, but not special event permits.

Kristen Piasecki added that The Playhouse at Fox Hollow is a different situation. It is part of a large condo complex as opposed to the close, residential setting here in Willamsville. Daniel replied that there is a full time family living 30 feet from The Playhouse that has never had a complaint. He would be happy to obtain a reference from them if asked. He pointed out that the density is far tighter and greater than the proximity of the Williamsville neighbors, although he understands the concern.

At that point, Joe asked to read from The Zoning By-Law.

Joe read from action 6.2.1 of the Zoning By-Law:

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#### 6.2.1a Off-Street Parking Requirements

After the effective date of this By-Law, off street parking spaces shall be provided for every new structure, the enlargement of an existing structure, the development of a new use or any change in an existing use, in accordance with the following schedule:

- Hotel, Motel, or Guest House - one parking space for each sleeping room.

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If we followed this law, there would be a minimum of 18 spaces needed, which a Site Plan would have to show.

[Clerk's note:

What Joe didn't mention were the remaining requirements from 6.2.2 through 6.2.6 which contains other aspects of parking requirements that must be complied with. An example would be the following:

6.2.1c

Commercial District - one off-street parking space for each 100 square feet of gross floor area plus adequate space for employees, service and supply vehicles.

Being an otherwise "commercial use", if this By-Law were to be implemented, the 12,000 sq ft of structure space - according to Daniel - on the lot would require 120 parking spaces... and topped with a product prescribed by the Board of Appeals.]

Admitting that there isn't much more room for more than 14 parking spaces, Daniel couldn't imagine where they could make the space for more parking, and added that his budget wouldn't be able to handle the costs involved.

Joe added that the purpose of zoning is to consider the extent of the use as it applies to the By-Law. If the use requires a certain number of parking places, and the applicant can't create those parking places, then the Board cannot grant the permit. The Site Plan can easily show the number and placement of parking spaces that can be placed in an area that the Site Plan designates.

Larry Pratt offered some historical aspects of the property. His point was that the property was run as an inn long before zoning. Its primary function was a restaurant/ Inn and the proposed use is now very different from that.

Matt Barnard summarized what he understood by stating that on the proposed use of the property, there would be no on site supervision; that the Applicant wants unlimited numbers of large events and there is an apparent parking issue.

Jack Houghton [an abutter for many years] added that the proposal sounds very ambitious and the use is clearly different from what it has been in the past. He stated that he agrees with the Levin letter regarding conditions to the Special Permit. He thinks that the parking is important for a residential neighborhood and he shares the concerns of the closest neighbors regarding parking especially. A Site Plan can easily clarify how the proposed parking would be configured and how many parking spaces can be allowed in the proposed parking area. He is in favor of a specified number of large events since he recalls problems and excessive noise from weddings held there in the past. He agrees that there should be staff present for certain planned events. He

pointed out that simply posting rules for renters doesn't always work. Complaints should be addressed to the owner or the guests - not the Police.

[Clerk's note:

At this point of the writing of this accounting, The Clerk was notified by the Chair that The Applicant withdrew his request to this Board. The remainder of this report will be less specific in an effort to complete the report for filing.]

Jack Houghton went on to mention the importance of a second floor egress that meets code. He also thought that there is a third floor as well. He closed by stating that he'd like the proposal to go forward, but he'd prefer it to be mindful to conform to the concerns of the neighbors and the Zoning By-Law.

Daniel replied by repeating many of the points that he mentioned earlier in the meetings - including that their business plan cannot afford further expenses. He also still didn't seem to understand what a Site Plan is [or is meant to describe], or the fact that the requirements for a Special Permit exceed the protections and exemptions of a non-conforming use.

Randy asked if there were any further comments from the floor. Hearing none, he closed the "public" portion of the meeting to begin deliberation.

Randy summarized by clarifying the inn operated as a restaurant with 90 seats and an inn with 18 rooms. He reminded us that The Building Inspector submitted that there was no need for a Special Permit for renting rooms, but that The Applicant's attorney insisted on one. Everyone seemed to agree that the restaurant exemption has expired.

Randy stated that the application was poorly submitted. It lacked the required Site Plan that shows very important aspects of the "plan" [like parking spaces.] He explained hypothetically that if a Site Plan was submitted showing the number of parking spaces, the types and sizes of activity there would be clearly defined. That is how zoning works. The Zoning By-Law places great respect for neighbors and their rights as defined in the zoning district that they live in.

Joe explained the significance of a Site Plan and how it could clarify the number of parking spaces in a given area. The Site Plan also identifies things like wetlands, flood plains, setbacks, buffers, and a host of information that a simple "survey" would not provide. Joe stated that he cannot vote on this application without a valid Site Plan that

addresses the above items. He also offered to send The Applicant examples of what a Site Plan looks like.

There was a review of various parking requirements in the By-Law.

Randy emphasized the importance of screening, setbacks and buffering, which is a requirement for this Board to address. He acknowledges The Applicant's repeated comments that the costs for some of these possibilities are prohibitive.

Dutch stated that he doesn't understand how Daniel can expect this Board to approve a use that requires more parking than he can [or is willing to] provide. Daniel seems to understand that issue.

Randy stated that there is likely no one that wouldn't like to see the proposed improvements made on the property

There was further discussion about ways for the Applicant to produce the requested Site Plan ["...without incurring further expenses..."], and Daniel repeating the dangers of imposing conditions that he cannot afford meet. Randy stated that this Board has been very accommodating to applicants, but by law has been always been focused on the community and neighborhoods in West Stockbridge as well. He ultimately reassured the Applicant that he could ask for an additional week to produce the information requested by this Board. Joe clarified that Daniel would like to postpone for a week to decide whether or not to go forward with his application. Randy confirmed that to be the case. Joe proposed a motion to do so. Dutch seconded the motion and it carried unanimously.

Daniel indicated that a withdrawal may be the result and that he respectfully thanked The Board for its considerations. The Board thanked Daniel for his as well.

Randy reviewed his concerns regarding parking and screening [among other things and the meeting adjourned at 9:02 PM with the intention of reconvening the following Thursday at 7PM unless The Applicant withdrew his application during that time.

As previously stated, on 5.20.20, this Clerk was notified by the Chair that The Applicant had withdrawn his Application for this Special Permit.

Respectfully submitted,
Joe Roy, Jr

Clerk

SEA FUND

SHARED ESTATES

ASSET FUND

VERSION 7.0

MAY 14, 2020



THE FREEMAN CONSTRUCTION PLAN

TAKING A PROPERTY FROM 1793 TO 2020

PRESENTED BY: DANIEL DUS

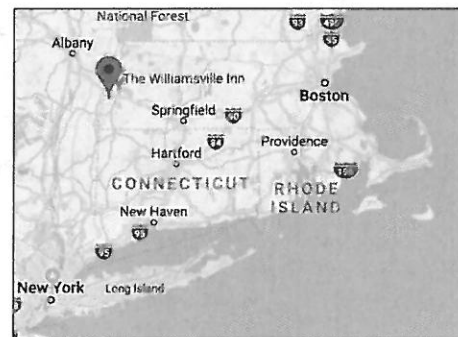
THE FREEMAN CONSTRUCTION PLAN

The Shared Estates Asset Fund I, LLC (SEA Fund) is a vertically integrated, carbon-neutral real estate redevelopment, rehabilitation and asset owner-operator of large short-term rental estates. The shared economy is the fastest growing segment of the real estate industry, where the fastest growing subset is estates - large format luxury rentals. Shared assets are those that are accessed peer-to-peer (P2P) via a community based online platform, such as VRBO, HomeAway or AirBNB. The Berkshires of Western Massachusetts offers a rare, robust year-round vacation rental market, and is a region with highly stable real estate valuations, and a unique inventory of luxury estates from the 1800s and early 1900s.

This plan outlines the rehabilitation of 286 Great Barrington Rd, West Stockbridge, MA, an 18 bedroom, 22 bath, 12,000 square foot estate on ten acres with in-ground pool, tennis court, orchard and organic gardens. The work will maintain the commercial use and establish the property as a leading short term luxury rental space in the Berkshire County tourist economy. The work will target several key focus areas: 1) building envelop and mechanicals, 2) aesthetic improvements and 3) significant updates to the grounds, IT and outdoor spaces.

LOCATION

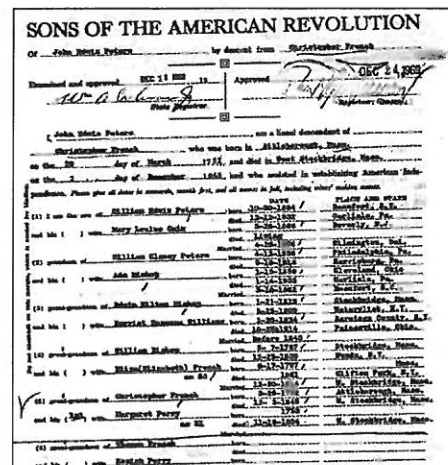
The property is just over 100 miles from both Boston and New York City, on the boarder of West Stockbridge and Great Barrington Massachusetts in Berkshire County. It is roughly ten minutes from each downtown Great Barrington, Stockbridge and West Stockbridge, and borders Tom Ball Mountain to the west, connecting directly with its hiking trails. The Williams River runs just to the east.



HISTORY

The original section of the estate was built in 1797 by revolutionary war soldier Christopher French and known as the French House and later Tom Ball Farm. Christopher's grandson, Charles Peter French fought and died in the US Civil War at the Battle of the Wilderness in 1864. Most recently the property was operating as a bed and breakfast and 90 seat farm to table restaurant called the Williamsville Inn, and is zoned as a hotel / resort with a special use restaurant permit.

The property will be renamed The Freeman, in tribute to Christopher and Charles French and Elizabeth Freeman; Elizabeth was a Stockbridge woman and the first African American slave to sue and win her freedom under the Massachusetts constitution. The property will be owned by The Freeman Berkshires, LLC.



IMPROVEMENTS

Building Envelop and Mechanicals

There are no major structural issues with the property, all work will be improvements in order to decrease operating expenses or improve the appeal of the property for its target market for high-end luxury short term rentals. Neil Segala, Home Inspection Services, performed the building inspection on October 15th; Neil has 29 years construction and inspection experience and has served as a local building inspector. The corrective measures recommended in the report are addressed in the planned construction activities priced below.

HVAC improvements are needed, including immediate replacement of the boiler, which will also be upgraded from oil to gas. The handlers and zone equipment is fully functional, in good shape, and will remain as-is. Equipment controls will be web-enabled. Six new mini-split units will be installed, including a replacement of an existing unit in order to improve the zoning control of some rooms. A variety of insulation improvements will also be completed, including replacement of all single pane glass windows and doors. Some siding repairs are required.

Mass Save incentive programs will be pursued in order to offset the cost of these improvements – these include upfront cash incentives and zero-interest loans.

Aesthetic Improvements

Although the kitchen and all bathrooms are fully functional, they will be gut rehabilitated for aesthetic improvements. Bathrooms will receive white marble throughout and glass showers, new reclaimed wood vanities and all new fixtures, including new custom mirrors by Berkshire Glass. Showers will have recessed reclaimed wood shelves and large format rain showerheads. All toilets will be replaced with European in-wall toilets to gain up to a foot of space in all bathrooms.

The kitchen will be gutted, new tile installed throughout and new concrete and permanent custom butcher-block counters replace all existing counters. The commercial refrigerator will be sold and replaced with two 48" built-in high-end refrigerators. The dividing wall between kitchen and dining room (pictured to the right) will be removed, a steel header installed and the island will be replaced with concrete. A central butcher block island will replace the moveable metal counter island currently installed. The existing wine coolers and ice machines will remain, but be enclosed within a custom closet.



All rug will be replaced with hardwood in main areas, and pine in bedrooms where needed. Existing, large-plank "king pine" boards will be sanded and refinished with clear-coats. All main-room floors will receive a Scandinavian white-wash floors.

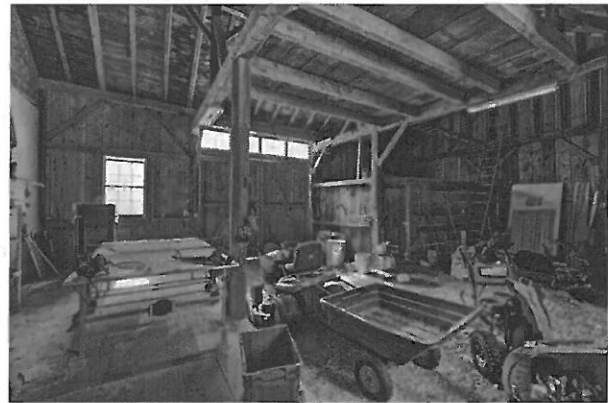
Gut rehabilitations of four of the rooms is required, including both cottage units and the barn units. These units will be taken down to the studs and reweatherized, rewired and refinished.

Total repainting of both the interior and exterior, all white, including recaulking and restoration is included. Original art pieces will finish all rooms, including one or two name-brand pieces. Custom-made hardwood beds will be made for each room along with several built-ins where appropriate.

Grounds, IT and Outdoor Spaces

All landscaping is to be rehabilitated, and a 4,500 square foot English-style labeled organic kitchen garden will be installed and replanted annually, produce from which will be included in welcome baskets. New landscaping plantings will augment existing beds throughout, and additions made around the road frontage, barn, parking areas and entryways. Regrading around the main structures will facilitate water flowing away from their foundations. The tennis court and pool will be fully rehabilitated and a large hardwood or stone deck will be installed around the pool area. Pool-side sitting and lounge furniture will be provided from Restoration Hardware or similar. The existing hiking trails will be widened, and sculpture added along the pathways and throughout the main property.

The 1,500 square foot two-story barn area (pictured right) will be rehabilitated. It will be painted white, a polished concrete slab installed and large custom chandeliers installed. Yoga and sports equipment will be provided for use here. The barn doors open to a large orchard, which will be rehabilitated, apple, pear, persimmon will be harvested and added to the welcome baskets.



Fifty to sixty existing mature grape vines will be relocated and another fifty vines will be added to establish a micro-vineyard on the north side of the parcel and maintained, grapes will be added to the welcome baskets in-season.

The existing stone patios will be significantly expanded to accommodate a large outdoor grill and fire pit area and ten to fifteen tables or cocktail tables when desired. Where existing patios are concrete block, this material will be removed and wider natural blue stone (or similar) will be installed.

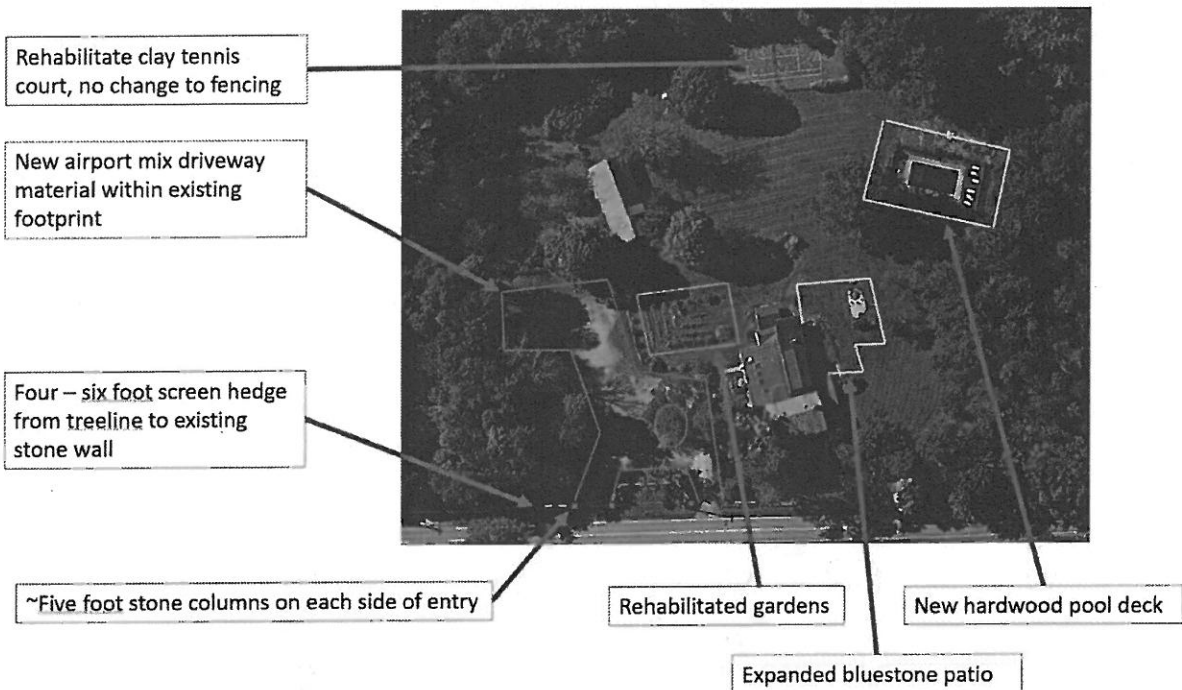
All existing common areas will be retrofitted, opening up the spaces by removing dividing walls to provide for well appointed gathering spaces. The current office room will be refitted as a game room, including a virtual reality gaming center. The three-story inn-keepers quarters will be renovated into a suite, where the first floor is a sitting area, the second floor includes a preparation room and the top floor has an open floorplan bedroom and bath with claw-foot tub and walk-out rooftop patio deck with 360 degree views of the property.

IT improvements are core to the renovation. Web-enabled flatscreens and high-end wireless-integrated smart-speakers will be installed throughout, in all bedrooms and shared spaces. Web-enabled light bulbs will be installed in each bedroom, as will wired side tables. Security systems will include video at each entry door. It's likely that two or three internet hubs will be required with multiple repeaters / signal-boosters. Internet signal will be available across all five acres of the main portion of the property. Dedicated tablets with all associated software will be available in all main rooms.

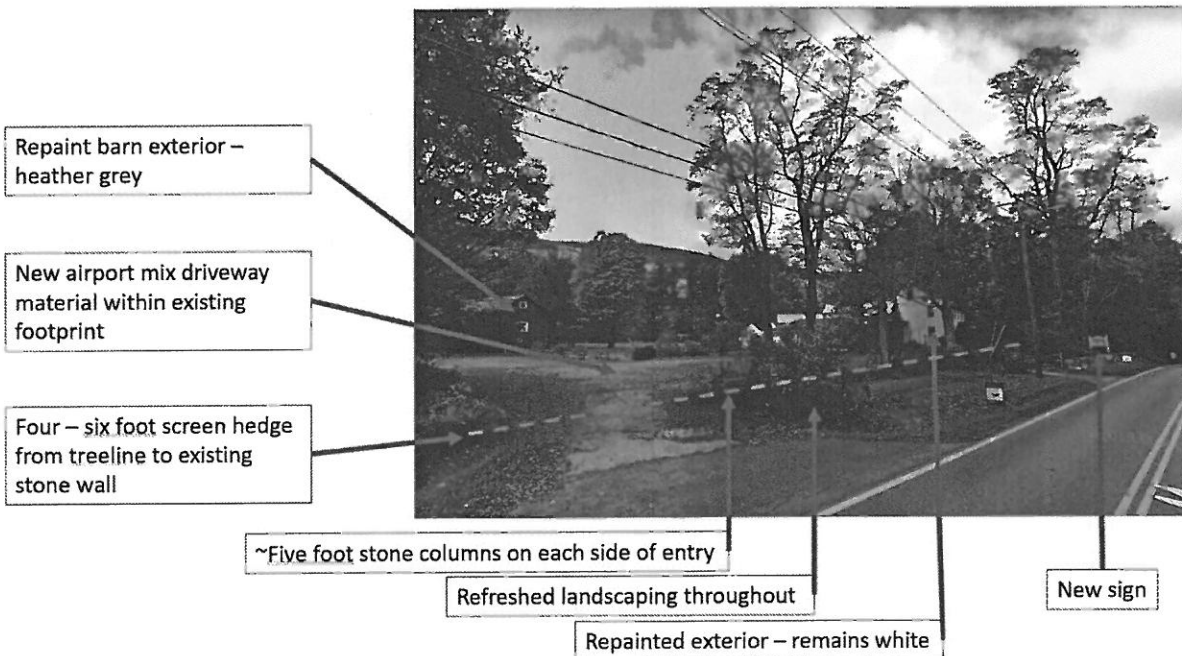
The General Partners include a licensed Massachusetts General Contractor, and will self-perform most of the related work. Some specialty trades will be subcontracted to leading local vendors include: Berkshire Glass, Berkshire Earth Regenerators, Kamil Peters Metal Work, Matt Cimini Electrical and others.

PARCEL FROM ASSESSOR'S MAP

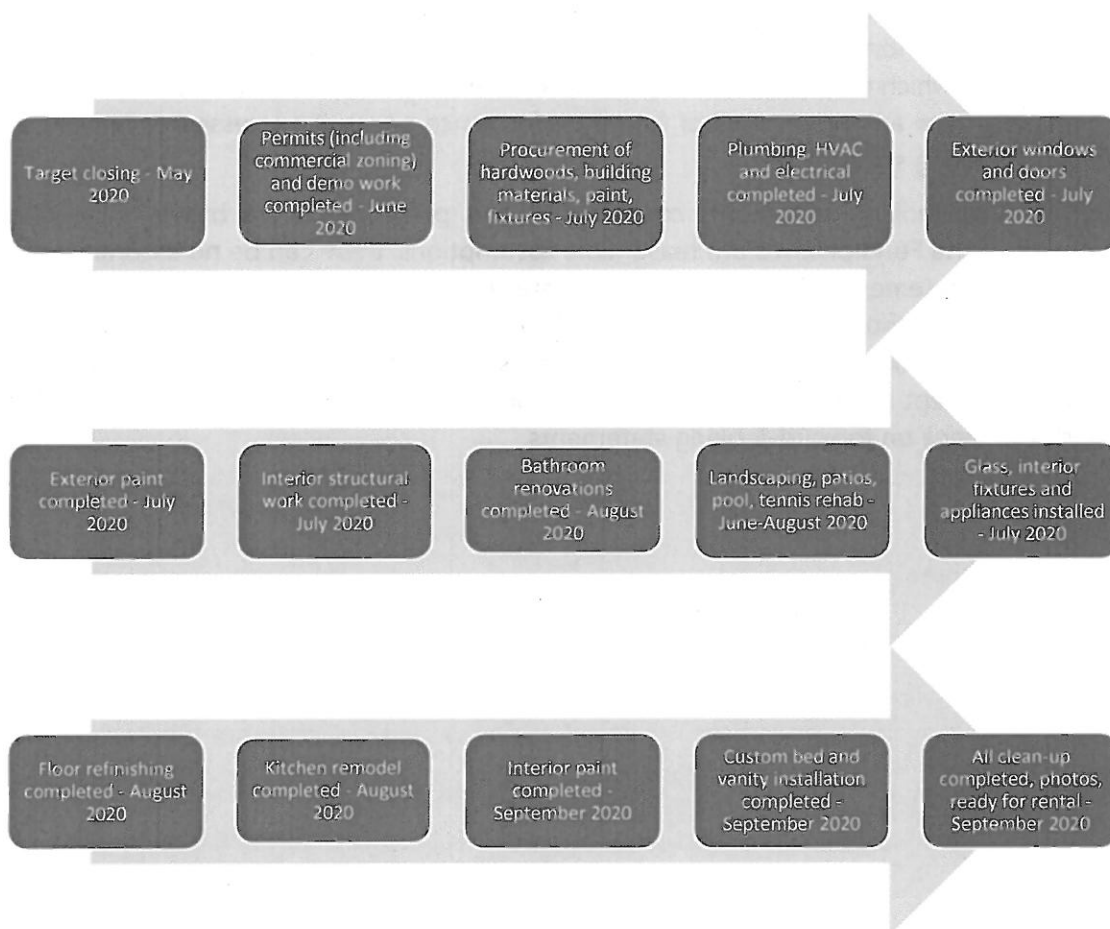
SITE PLAN



FRONTAGE IMPROVEMENTS



PROJECT TIMELINE



SAFE HARBOR

Certain information set forth in this plan contains "forward-looking information", including "future oriented financial information" and "financial outlooks", under applicable securities laws (collectively referred to herein as forward-looking statements). Except for statements of historical fact, information contained herein constitutes forward-looking statements and includes, but is not limited to, the (i) projected financial performance of the Fund; (ii) completion of, and the use of proceeds from, the sale of the shares being offered hereunder; (iii) the expected development of the Fund's business and projects; (iv) execution of the Fund's vision and growth strategy, including with respect to future acquisitions activity and growth; (v) sources and availability of third-party financing for the Fund's projects; (vi) completion of the Fund's projects in development or otherwise under consideration; (vi) availability of the suppliers and materials needed to execute the Fund's plan; and (vii) future liquidity, working capital, and capital requirements. Forward-looking statements are provided to allow potential investors the

opportunity to understand management's beliefs and opinions in respect of the future so that they may use such beliefs and opinions as one factor in evaluating an investment.

These statements are not guarantees of future performance and undue reliance should not be placed on them. Such forward-looking statements necessarily involve known and unknown risks and uncertainties, which may cause actual performance and financial results in future periods to differ materially from any projections of future performance or result expressed or implied by such forward-looking statements.

Although forward-looking statements contained in this presentation are based upon what management of the Fund believes are reasonable assumptions, there can be no assurance that forward-looking statements will prove to be accurate, as actual results and future events could differ materially from those anticipated in such statements. The Fund undertakes no obligation to update forward-looking statements if circumstances or management's estimates or opinions should change except as required by applicable securities laws. The reader is cautioned not to place undue reliance on forward-looking statements.