



TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

140 Worcester Street * West Boylston MA 01583 * zba@westboylston-ma.gov

MEETING MINUTES

March 24, 2016

Chair: Kristina Pedone

Members Present: Kristina Pedone (Chair), John Benson (Vice-Chair), David Femia (Clerk), Barur Rajeshkumar and Charles Witkus .

Others Present: Daniel Cronin (Associate Member) and Secretary Toby Goldstein.

Members Absent: Paul Hennessey (Associate Member).

At 7:15 p.m., Mrs. Pedone called the meeting to order. She read the names of members present. Mrs. Pedone then read the agenda items, which included Other Business at 7:15, 7:30 the Continued Public Hearing for Pasquale and Pasquale-Gadoua, Petition for Variance, and at 7:45 the Public Hearing for Bilotta et al, Petition for Administrative Appeal. She explained that there is also a room set up downstairs (Land Use Meeting Room, Rm. 120/131) in which the activities in the Selectmen's Room (main meeting room) will be televised to the public, and instructed the public that they will stand and give their names and addresses when it is time for public comment, and anyone in the downstairs meeting room who wishes to make a comment would come upstairs to do so, as the downstairs room will not be set up to record activity and send it downstairs.

Other Business:

Minutes of February 25 Meeting: After review of the minutes by the board members, Mr. Femia moved to accept the minutes as submitted. Mr. Rajeshkumar seconded. All in favor.

Other Paperwork: Mrs. Pedone read through mail and other paperwork and signed items that needed signature.

Continued Public Hearing, Pasquale and Pasquale-Gadoua, Petition for Variance, 393 and 395 Lancaster Street:

(Atty. George Kiritsy represented). Mr. Kiritsy, to remind the public, stated who he was and that he was present at the February meeting, and that, since then, the board requested a supplemental memorandum (on file) explaining why he and the applicants were requesting a variance from the ZBA, as there was some question as to the necessity. Mr. Kiritsy explained that they were seeking a dimensional variance, explaining the frontages and areas of the properties involved, explained that this is consistent with plans from 1960, and that there was no other increase in nonconformity. This was the limit of the variance. He continued that he obtained the opinion of Town Counsel also. Mrs. Pedone asked for any questions from the board, and there were none. She then asked for public comment.

Marc Frieden of Planning Board asked about the content of the memo. Mrs. Pedone asked Mr. Femia to read Town Counsel's comments, and he read them. With no other public comment or questions, the hearing was closed to public comment and it was now opened to deliberation by the board. Mr. Kiritsy informed the board that he had drafted a tentative decision notice for them to review and gave a copy to Mrs. Pedone; Mr. Femia read this aloud. Mr. Femia then made a motion to approve the variance as just read. Mr. Rajeshkumar seconded. All in favor. The vote was as follows:

Mrs. Pedone: "yes"
Mr. Femia: "yes"
Mr. Witkus: "yes"
Mr. Rajeshkumar: "yes"
Mr. Benson: "yes"

The Variance was granted.

Public Hearing, Bilotta et al, Petition for Administrative Appeal:

(The applicants were appealing the decision of the interim Building Inspector, the Zoning Enforcement Officer, regarding 241 and 251 Laurel Street (Wayne Almstrom, owner) to refuse to force Mr. Almstrom to stop the gun firing range on his property). (Mrs. Pedone, who was ill, informed those present that she would ask Mr. Femia to read certain items). Mr. Femia read the legal notice of the public hearing, and then he read aloud the petition itself. In summary, the applicants (George Bilotta, Loree Griffin Burns, Jessica Frenger, Patrick McGreal, Timothy O'Brien, Mary Ellen Davis, Rich Wall and John Sullivan, individually and on behalf of Concerned Citizens of West Boylston) were petitioning the refusal of Chris Lund to issue a Cease and Desist to Mr. Almstrom, claiming that it was in violation of the bylaws and 10/20/93 home occupation business permit by ZBA and violation of the bylaws governing home occupations. The petition states that Mr. Almstrom failed to limit his business according to the 7/2015 Cease and Desist letter from the Building Inspector, which included limiting of hours, supervision and days of operation.

Mr. Femia continued, that the 7/31/15 letter from Mr. Lund, according to the Worcester County Registry of Deeds, stated that Mr. Almstrom was in violation of the zoning bylaws regarding outdoor recreational use in a single-residence district, and no use variance was filed for this, so he was ordered to stop and told he could apply for a variance for use if he wanted.

Mr. Femia continued, that on 1/30/16, the Concerned Citizens of West Boylston (CCWB), c/o George Bilotta, asked Mr. Lund to order Mr. Almstrom to stop the outdoor commercial use in a single-residence district as he did not follow the Cease and Desist letter. According to Mr. Lund, Mr. Almstrom did not have his abutters' consensus against him, and if there is no notice of violation or abutters' complaints, he would not send him a second order.

Next, Mr. Femia read, an appeal letter by (8) residents, the CCWB, appealed the decision by Mr. Lund regarding the property at 241 as residential, and 251 as a home occupation with a permit to sell guns, as this was a single-family district. The CCWB wanted a Cease and Desist order. Mr. Lund reminded them on 1/30/16 that he issued an order already, and with no appeal, it was still in effect. They wanted an additional Cease and Desist, however, because of violations in use and a so-called "gun range club" being non-conforming. They asserted that the gun range was not permitted, as it is a large scale commercial operation, operating all week at all hours. Mr. Lund asserted that they lacked evidence so that he would not take further enforcement action. He reminded them also that, with the ZBA, they would need four members to vote unanimously on an administrative appeal, and he discussed the role of the ZBA and the process of bylaw interpretation and decision making; he mentioned that they are governed by State zoning act, it is a voluntary board, and they need a concurring vote of 4 of 5 to vote on the Building Inspector's decision.

Next to speak was Attorney David Viens, representing the petitioners, along with George Bilotta, one of the petitioners; they were seated at one side of the table set up for the petitioners and respondents. At the other side were Attorneys Ed George and Susan Chu, representing Wayne Almstrom; along with them was Wayne's granddaughter, Kelly Samia. Ms. Chu stated that Wayne and his wife were still vacationing in Florida.

Mrs. Pedone informed those present that the format would be that each side would have 15 minutes to present their facts, then the hearing would be opened to public comment after. She instructed the audience to keep their comments to themselves until their turns to speak.

Mr. Viens thanked the board, and explained why he and the petitioners were at the meeting. He asserted that they were there to appeal the denial of the Building Inspector to enforce certain laws of the Town. He explained that, according to bylaws 40A, Section 14, the board has the same powers as the Building Inspector to regulate the use of properties. The petitioners are seeking relief from the board because information has increased regarding the

activities at Wayne's Weaponry and they are seeking to close the gun range to the public and either limit it to use by Wayne's family, or else limit the use as was set forth in the petition.

He continued that, in the original bylaws created by ZBA in 1946, the bylaws stated this: due consideration would be given to protect the public and preserve property values, therefore the ZBA would prescribe appropriate decisions. Mr. Viens asserted that the key issue was not of commercial or non-commercial use; the Building Inspector ordered no commercial use. But, Mr. Viens asked, how is that interpreted? What does that mean? Are fees charged or are there customers? He thought that the main question was if this is permissible use under the bylaws, and if not, is it pre-existing non-conforming use?

Mr. Viens then discussed the history of the gun range use on the property. It appeared that it began in the 1970's, and in 1993, Mr. Almstrom was granted a special permit by the ZBA for a home business. Mr. Viens said that complaints increased in the last several years. He said that there is a question of when the use began and what the bylaw stated. He asserted that the bylaws never permitted the use of a single-family residence for a gun range or gun club. He continued that the zoning district of 241 and 251 Laurel Street was always a single-residence district, with no building used except for permissible uses; accessory uses on the same lot could not be detrimental to the neighborhood. Any pre-existing non-conforming uses were permitted to go forward; so, he surmised, since there was no evidence of a gun club in effect in 1946, it was never a permitted use; also, there was never any category in the special permit for use for a gun range or gun club in a single-residence district, therefore this use for the property was never a permissible use.

Mr. Viens continued that the next question was what was the meaning of accessory use? (He read a legal case attached to materials submitted by the petitioners). He responded that the factors looked at regarding accessory uses are items that are incidental, minor and insignificant. But, he asserted that, on this property, they are not insignificant or minor, and thought that the burden of proof was on Mr. Almstrom to prove that these uses were pre-existing non-conforming uses and Mr. Almstrom has not submitted any materials in relation to this.

Mr. Viens continued that the special permit from ZBA in 1993 only gave permission to sell and perform repairs of guns, but no permission was given for a firing range or to test guns (he referred to the submission, where it stated that Mr. Almstrom said that his father had a range, but there was no indication that he would use his business for that purpose). Mr. Viens said that ZBA had safety concerns at that time, and if Mr. Almstrom requested permission for the gun range at that time, there may have been different considerations regarding issuing of the permit.

Mr. Viens continued that the bylaws currently prohibit a single residence from being used for private clubs and believed that this was no oversight by Mr. Almstrom, as it grew over the years. He cited Police Dept. records containing complaints on the use of the business for the gun range (these were in the petitioners' submitted materials). Mr. Viens said that it appeared that the business was tied to the range and the range grew as the business grew. He asserted that the gun range was unlicensed, unsupervised and unmonitored, with complaints regarding noise, ricocheting bullets and military-style weapons being used. There were references in the complaints to bullets flying past citizens on the rail trail, hours-long shooting, high caliber weapons, shooting on holidays, and cannon-like fire, and effects on the neighborhood were referenced. (At this point, Mrs. Pedone reminded Mr. Viens that he had 2 minutes remaining for his presentation). He also mentioned some statutes that were referenced in the petitioners' information, but said that they did not apply in this matter. He said that Robin Mellecker submitted information regarding two ranges appearing on Facebook, along with a schedule of sessions, and this defies the bylaws. Mr. Viens thought that the range should be closed to the public because of the impermissible use, and that the family can use it but it should be limited to reasonable use, such as certain hours, days of the week and types of weaponry used.

(Next, Mrs. Pedone spoke to Mr. George, telling him that he would have 18 minutes to speak because Mr. Viens exceeded his time). Mr. George stated that the bylaw in 1946 did not say that someone can have activities such as pool or archery, items that were common at that time, and did not say that someone cannot have a firing range. He asserted that he and Mr. Almstrom did not receive the petition until the previous week so that they did not have much time to respond or to obtain signatures, and said that he will supplement later what has been submitted. He mentioned that the petitioners had been collecting signatures for a month. Mr. George stated that he submitted 20 copies of a letter, along with an affidavit from Mr. Almstrom (which he read); he explained that Mr. Almstrom was in Florida so he did not know about the petition (he was sent the legal notice, but the Secretary did not know that Mr. Almstrom was away or that he had a representative to send it to). Mr. George said that he and Ms. Chu went over the information from the petitioners on the phone with Mr. Almstrom.

Mr. George then gave the history of the property. He said that the family acquired the property in 1942, and separated it into 251 Laurel Street for Mr. Almstrom and 241 where the range is and Mr. Almstrom's son lives in the house there. Mr. Almstrom's mother taught him shooting, and he had invited friends since the 1970's to shoot before the separate building for Wayne's Weaponry was built at 251; the gun shop was opened in 1995. Mr. George addressed the assertion of the range being more active recently; he said that Mr. Almstrom always operated the gun shop after his job for the Town, evenings Monday through Friday and on Saturdays, and claimed that it is not open during the day, even though people have said that there is activity associated with the gun shop. Mr. George also asserted that most people buy ammunition and

guns from “box stores” and not from Mr. Almstrom, and added that Mr. Almstrom has always been a person involved in shooting sports.

Mr. George continued that he had a meeting with Mr. Bilotta, Lorie Burns, Jim Purcell (interim Town Administrator) and Town Counsel in September and sent a letter to Mr. Lund requesting enforcement from him, and Mr. George said that his aforementioned letter was not a settlement letter, but had ideas as to how to deal with the situation, such as a shooting house to keep down the noise. But, he said that first they need to know if the complaints represent a significant number of people in the neighborhood; second, the Town can modify the range, but he never heard from the Town, and said that he would just want to know that the “grandfathered” status of Wayne’s business won’t be lost.

Mr. George continued that most of the people who submitted complaint letters did not live within a mile of Mr. Almstrom’s business. He described how one person bought a house just recently in the area but said that the situation had gotten worse. Of the petition signers, one bought their home before 1993 but most were later. He also mentioned that hundreds of acres of land surround the range, and that there are three gun clubs in the area, along with a police shooting range nearby, so that there is no proof as to who is doing the shooting and where they are doing it. He also questioned the restrictions on caliber and types of weapons used and explained that this has been Mr. Almstrom’s home for a long time, whereas one petitioner moved here in 2014 and described how the shooting reminded him of New York City.

Next to speak was Kelly Samia, 251 Laurel Street, Mr. Almstrom’s granddaughter, who was also representing him. She said that she had been shooting since childhood and that her grandfather taught her all about guns. Mr. George then added that what people have called a “huge range” was a small cow pasture.

(Mrs. Pedone then asked for questions from the board). First, Mr. Benson asked Mr. Viens if he thought that firing of weapons is prohibited on private property? Mr. Viens replied that if the weapon is legal and there is sufficient clearance, it should be allowed, and admitted that if someone is shooting all day or using a machine gun, these are not reasonable activities, and public use can cause a huge volume of activity. Mr. Benson, to verify, then asked him, aside from the community, is firing by a property owner not prohibited but the quantity is prohibited? Mr. Viens responded that it’s a question of how much is reasonable.

Mr. Benson then asked Mr. Viens if people take shooting lessons and are required to pay for it, does that constitute commercial use? Mr. Viens replied that the commercial aspect explains why the petitioners are there, but excessiveness is also an issue.

Mr. Benson then discussed the fact that there is a line to be crossed at some point, from permission for use to the amount or type of firing, where the bylaws will be violated, and there

is a spectrum starting at occasional use by the owner to clear violation of commercial enterprise by the gun shop and this grey area was not contemplated by the bylaws. Mr. Viens asserted that this is flagrant use of the property and that it cannot be open to the public anymore and even the family must be restricted to reasonable use. Mr. Benson questioned if perhaps greater enforcement of the commercial aspect might be more appropriate, but Mr. Viens replied that the Building Inspector already told Mr. Almstrom that there was to be no commercial use of the property. Mr. Benson thought that there was some ambiguity as to what was ordered in the Cease and Desist letter from the Building Inspector.

Mr. George continued, saying that, in September 2015, the commercial aspect issue came up, and explained that Mr. Almstrom held classes in the past for friends of his, and asserted that, in September, he stopped all classes. Mr. George said that Mr. Almstrom will also close the shop 12/31/16 because his license expires in May 2017, and he will sell wholesale to other dealers and retire from the gun shop. Mr. George continued that Mr. Almstrom stopped Sunday shooting and late shooting, and has had no classes since December. He said that they are not asking for classes to be allowed or for commercial use, but there is only a range and gun shop, which have been there for years. (Referring to the allegation of advertisement on Facebook, Mr. George asserted that anyone can do that and Mr. Almstrom did not post that or agree to it). Mr. Viens responded that Mr. Almstrom has had a network of people over 30 years and that these people will continue to shoot even if the business is closed.

Mr. George next questioned the assertion that commercial use of 251 is connected to the use of the range and thought that the selling of the shop after 12/31 would not satisfy the petitioners and that they want the range closed. He discussed the affidavits submitted by those in favor of the petition and asserted that most of them are anti-gun or they moved here from other areas and associate the gun fire with those areas. Regarding the assertion that random bullets are noted in the area from shooting at that range, he showed photos of the range's backstop, saying that it is not likely that random bullets are coming from there. Mr. Viens then responded that the petitioners' argument does not rest on commercial use, but mainly on the accessory use, which is not incidental.

Mr. Rajeshkumar then asked Mr. Viens, in his opinion, who could shoot there? Mr. Viens replied that Mr. Almstrom and anyone else who lives on the property should be able to shoot, but argued that Mr. Almstrom has a vast network of friends and customers and that there need to be limits on who can shoot. (Mr. Rajeshkumar then asked if he would be allowed to bring any friends to shoot?) Mr. George argued that Mr. Almstrom does not have a "gun club". (Mrs. Pedone asked Mr. George to stop). In response to Mr. Rajeshkumar's question, Mr. Viens replied that they would think shooting should be permitting if this "large public invitation at all hours" was not created; there is a difference.

Mr. Benson then asked Mr. Viens if he was asking the board to punish Mr. Almstrom for past wrongs and place restrictions on him but not on the rest of the Town? Mr. Viens replied “no”, and that they are asking the board to close down a large scale public gun range. Mr. Benson, to verify, said that Mr. Almstrom would have different rules than others who are allowed to invite friends to shoot, just because he has a large amount of them. Mr. Viens responded that he was not aware of any other similar uses. Mr. Benson asked him if he is treated that way, would that not be punitive? Mr. Viens replied “no”, because Mr. Almstrom was allegedly violating the bylaws so it needs to be remedied by the ZBA, and no one else is violating the bylaws at this time; if someone else violates them,, the board can take action. He continued that, if the board is inclined to permit guests, it must be clearly be limited from commercial use, and by times and quantities allowed because reasonable use is not taking place right now.

Ms. Samia added that a neighbor down the road from them shoots like they do, and asserted that they do not have shooting at all hours of the night and people have to ask to do shooting. She asked if other relatives would not be able to come over and shoot?

Mr. George then cited a letter from 3/17/16 to Town Counsel from Mr. Viens with affidavits, and read on page 2 that use as a large scale range and club is never permitted under accessory use. He stated that, in his submitted packet, part 2, exhibits A-F, exhibit C, pictures taken in the summer of 2015 at the range, notice the size of the backstop, and disagreed that this is a large scale range. He said that none of the affidavits substantiated that claim, just attorney’s testimony. He said that the petitioners need to do more than file affidavits from People “afraid of gunfire” and asserted that no proof came from them, and mentioned that the police have some automatic weapons and practice with them and that the claims of commercial use are “guilt by association” and there is not one person to testify to that. Mr. Viens asserted that the affidavits, complaints and police records refer to large scale gun use.

Mr. Femia then asked, regarding the request to prohibit use of certain weapons in the petition, if there was any proof that they were being fired? Mr. Viens replied that there was mention from the previous Building Inspector of dangerous weapons being used, and he asserted that police records mention some firing of them and the affidavits also indicate high caliber firing. Mr. Femia then asked Mr. George if he found out anything about the types of weapons when he talked to Mr. Almstrom? Mr. George replied that he mentioned 22’s and standard weapons and high-powered rifles, and Mr. Almstrom maintained that civilians do not shoot automatic weapons and that the aforementioned types of weapons were what they would shoot and always have done so. Mr. Almstrom also told him that there were no exploding targets used, and claimed that he had tried to meet with people who issued complaints but they did not want to meet with him.

Mr. Femia then asked Mr. George about there supposedly being two ranges at 251 Laurel St. Mr. George said that there were not two there; he explained that there used to be a pistol range there, and that there is one shooting range at 241, with what could be called a second range at 241. Mr. Femia said that supposedly there were two shooting ranges available at 251, one in the back and one at the side, and Mr. George said that he was not aware of that. Ms. Samia then said that there are two there, and that she practices her pistol there. Mr. George explained that he did not believe that the two are used by the public. When asked about a sand wall located there by Mrs. Pedone, Mr. George thought that it was probably a back stop. (Mr. Witkus then asked Officer Dugan, who was present at the meeting for security purposes, a question about any complaints that he received about shooting noise from the jail, as Mr. Witkus lives less than two miles from the jail, and Mrs. Pedone responded that Mr. Dugan is not available for questions at the meeting).

Mr. George continued that targets are placed at the sand backstop at 241 Laurel. Ms. Samia explained that people used to shoot there but the Almstrom family told them that they could not and maintained that it is not a range. Mrs. Pedone remarked to Ms. Samia that, based on testimony and Mr. Almstrom's Facebook site, there are two ranges there and that some people shoot at the sand wall. Mr. George responded that he did not believe that the public uses the sand wall, and that the test ranges are not open to the public and they are not referring to behind the shop, either. Mrs. Pedone responded that the website mentions a sports and recreational area. Mr. George said that he had not seen the website. Mr. Femia thought that the board should see the range at 241 in order to make a valid decision. Mr. Benson asserted that, no matter the number of ranges, the question was the conduct that was going on. Mrs. Pedone responded that the number of ranges did matter because of the amount of activity and people, family and non-family; they are trying to understand the number of ranges to determine how many people are shooting and who is doing the shooting. Mr. George continued that he had seen the ranges and he recalled an incidental range behind the shop, and that Mr. Almstrom tests guns there sometimes but he did not think that people go there and said that he can find out. He thought that the website might be inaccurate. Mr. George also thought that there had not been any increase in shooting since 1993, and repeated that there had been no classes held since September, and the times and days with shooting were cut back.

Mr. Viens then said that many of the petitioners were long-term residents of their homes and did not just move there and complain against Mr. Almstrom (he proceeded to read names of these people and when they moved here). He also said that the police records show that the shooting and frequency of complaints has increased, too.

Mrs. Pedone then asked Mr. Femia to read a letter sent to the board by a resident, who requested that it be read aloud at the meeting. The letter was written by Robin Mellecker and

Sean Hackett of 11 Hosmer Street. Mr. Hackett then spoke, first giving his name and address. He discussed that he and his wife bought their house eleven years ago, and that he was diagnosed with a form of muscular disease, and explained that he expected to be able to choose how he lived, rather than having his life affected by gun enthusiasts and a neighbor with no consideration; he said that it caused him stress to have no control over his environment (the audience clapped at this point).

Susan Chu (with Mr. Almstrom's legal team) then read a letter by a resident, Eric Mensing, a resident of Laurel Street, who stated that he was never disturbed by the sounds of Wayne's Weaponry and said that the Almstroms were pleasant neighbors.

Next, Deborah Mattison of 395 Prospect Street asked when the police investigated the situation? Mr. Viens replied that many shooting complaints to the police were connected back to this property.

Thomas Reilly of 16 High Street spoke next. He asserted that many contradictory things have been said regarding Wayne's Weaponry over the years, and that there has been less shooting activity over the past few years. He said that Mr. Almstrom is a friend and allows him to shoot on his property; he also said that he never bought anything at the shop, that the gunfire does not disturb him and asserted that it does not go on all day.

Next to speak was Sue Meola of 176 Malden Street. She said that she has lived in West Boylston since the 1960's and thought that gunfire has increased. She said that she likes the Almstroms, that she is not an anti-gun person, and, after stating that she has had parties when the police was called due to the noise, she thought that the issue is about the quiet enjoyment of her property. She added that she has a tape of the shooting noises which she said that she has heard every day. Mrs. Pedone responded that the board cannot hear the tape and she was not there personally when it was recorded. Ms. Meola continued that she is a realtor and that gun ranges affect property value by decreasing it. She mentioned one instance where a potential buyer heard gunfire and walked away from the property. She claimed that some homes have lost 30% of their property values due to the gun ranges, as that needs to be disclosed to potential home buyers by law.

Next to speak was John Sullivan of 19 Townsend Drive. He said that he moved here in 1978 and did not know that there was a gun range for years. He claimed that the gunfire increased a lot over the last five or six years and said that he spoke with Police Chief Minnich about it. He thought that the amount of gunfire had gotten out of hand, and described how the gun range is located on a hill with a valley in between and that a lot of the land is part of the watershed where hunting cannot be done. Mr. Sullivan also said that Chief Minnich had sent officers over there after dark and claimed that shooting takes place evenings and Sundays, even since

September, and felt that there should be some compromise regarding the amount of shooting because it affects the residents' qualities of life.

Patrick McGreal of 19 Rivington Drive stated that he cannot sit in his backyard on a Saturday and enjoy that, that his quality of life has deteriorated and he has considered moving. He asked the board to consider the matter carefully or else, he asserted, there would be problems for the Town such as people moving and property values decreasing.

Next to speak was Sandra Samia of 251 Laurel Street; she is Wayne Almstrom's daughter. She claimed that there has been no shooting at all on Sundays since last year. She said that no one came to the family to ask them not to shoot on certain days either. Ms. Samia also asserted that the shooting heard on Sundays did not come from their property and that people with complaints do not know where the shooting actually comes from.

Jessica Frenger of 48 Rivington Drive spoke next; she said that she moved there in 2014 so that she is new to the Town. (Crying) she stated that the gunfire affects her children, describing how her three-year-old runs to his room afraid when he hears the gunfire. She claimed that they hear it every day, and that it did stop on Sundays, but on Saturday mornings one can hear it all over and that it sounds as if they are being shot at. She added that her children won't play outside on Saturdays and asserted that the closest gun range outside of that one is in Worcester and that she did not know about this one in West Boylston previously.

(Mrs. Pedone then asked those from the downstairs meeting room with comments to line up to express them in order). Next to speak was Rich Wall of 18 Townsend Drive. He said that he moved here in 1983 and claimed that gunfire has increased in the last five to six years, and that people who are interested in moving to West Boylston have asked about the gunfire.

Nathan Palumbo of 184 Malden Street spoke next. He mentioned that, on the Town website, the Town values of tranquility and peace of mind are described. He continued that he moved here eight years ago from rural Pennsylvania and did not know there was a gun range here, and claimed that the gunfire was constant on Saturdays last summer.

Next to speak was George Bilotta, 173 Malden Street, who was one of the petitioners. He stated that he had been a resident since 1999. He explained that, in September, he asked the Town to bring together people involved in the matter. Mr. Bilotta asserted that, on September 30, Mr. Almstrom responded that he could not foresee any decrease in the amount of shooters or noise because his mission was to allow gun enthusiasts to use his land; he added that Chris Lund and others could verify this meeting. Mr. Bilotta claimed that on a Saturday he counted more than twelve people who did shooting, and that there were three shooting stages at the backstop. He also claimed that instruction was going on and that anyone could walk onto the property, continuously, with as many as 25 people at one time. He continued that much

shooting goes on at the sand pit, which he said appeared somewhere between 2005 and 2008. He asserted that the gunfire had gotten worse since about 2009 or so. (The audience again clapped).

Mr. George then explained that Mr. Almstrom is not present, as he was still in Florida and that he (Mr. George) is speaking for Mr. Almstrom but he is still not present. Mrs. Pedone responded that she was not aware that Mr. Almstrom was in Florida and that she preferred that he be present to speak for himself.

Mary Ellen Davis of 85 Pine Arden Drive, one person who submitted an affidavit, spoke next. She explained that she has lived at that address for over 25 years, and commented on the number of complaints from all over the town. She believed the gunfire to be disruptive to the community. She also asked who will enforce any limitations that may be made? She described how Mr. Lund said that it was not his job to police private property and claimed that, if it was left to Mr. Almstrom's discretion, it would not happen. Ms. Davis believed that if shooting there was limited to the family it would be enforceable. She added that she agreed that the shooting has been more prevalent and claimed that the guns used were not hunters' guns but like machine guns and that the shooting begins in the early morning. She continued, asserting that this is a health issue, with loud, episodic, stressful noise affecting the health and the immune system. She explained that the stress comes from a person having to question if the gunfire is from an active shooter and that it is beyond annoyance, affecting many systems of the body.

Mrs. Pedone then commented that there are many people present with much to say, and believed that the board does need Mr. Almstrom to respond. She said that she was not at a previous meeting where both sides tried to make a compromise, and she commented that he did not hear anything to the effect that anyone went directly to Mr. Almstrom and speak to him about it.

Robin Mellecker then responded that, since 2013, they tried to obtain help from the Town, and remarked that shooting was going on Christmas Eve. She mentioned that her husband (Sean Hackett) is on a drug trial and just wanted to sit outside and could not do so. She expressed regret at not talking to Mr. Almstrom directly.

Erin Palumbo of 184 Malden Street then asserted that the situation cannot be worked out by talking to Mr. Almstrom and that they are asking the board to make a decision.

(Mrs. Pedone then commented on Ms. Palumbo's tone of voice and asked her not to speak like that to her). Mrs. Pedone responded that she was not suggesting that they go over to Mr. Almstrom's home and that he and his wife are not in town, but that it is unacceptable for

anyone to take away Mr. Almstrom's right to speak for himself as no one else would want that to happen to them.

Michael McGrail (I could not read the spelling on the sign-in sheet) of 173 Malden Street responded to Mrs. Pedone that she did suggest that they speak to Mr. Almstrom, and she explained that she was suggesting that, out of 45 neighbors of his, that someone could have talked to him. Mr. McGrail (sp?) claimed that the neighbors were intimidated, and Mrs. Pedone responded to him that she did not want them to be uncomfortable and did not want them to go to see him.

Mr. George then discussed the settlement meeting, which took place on 11/15/15 (on file in packet submitted by Mr. George). He asserted that no one threatened anyone at that meeting, and explained that it was said to Mr. Bilotta that they needed to know that he represented a majority of the complaints, and that if Mr. Almstrom changes his range and builds shooting structures to attenuate the noise, that the Town would not follow up with this appeal, but the neighbors never responded about that.

(Mrs. Pedone instructed the audience that, after the next person, the hearing would be closed to public comment). Timothy O'Brien of 3 Rivington Drive was the last person to speak. He claimed that he went to Mr. Almstrom about this when rounds were fired after dusk, and has called the police several times, telling them that he heard military-type and semi-automatic-type weapons. He mentioned that Mr. Almstrom admitted to having exploding targets (claiming that this was on the record). Mr. O'Brien said that he called the police in August and was told that Mr. Almstrom went to court about the complaints and won. He asked the board not to delay further, and claimed that people did not know about the range because it was not a legal range.

Mr. Viens then wanted to comment quickly, referencing pages in the police records that were submitted. He explained that it was legal to use a range at 251 Laurel Street, but corrected the information by saying that 241 has the range, and basically the two properties are put together. Mr. Viens thought that the police had misinformation about the range legality. Mr. George responded to this, saying that he and his client wrote a letter in November which invited the citizens to talk to them and they never came back to do so. Mr. Viens responded that they never received the letter.

Mrs. Pedone then closed the hearing to public comment. She then asked who was running the gun shop in Mr. Almstrom's absence? Kelly Samia replied that the shop is not open. Mrs. Pedone asked her if the range was open? Ms. Samia said that it was only open to family.

Mrs. Pedone then asked the board for their comments. Mr. Benson spoke first. He first asked the board if they thought that there was significant evidence that the quantity of use of the

range was related to the commercial aspect of whether or not this was a gun club or business? He thought that, at the same time, the Cease and Desist letter sent by the Building Inspector should be vigorously enforced. He said that violation of the bylaws would not be consistent with the permit. He also thought that use should be limited but the connection of the range to a business would be enforced by the Building Inspector and the police. But he also did not think that shutting down of the range or imposing of limitations was appropriate at this time as the owner would be restricted in a punitive way based on his previous activity whereas others would not be restricted in this way. Mr. Benson believed that Mr. Almstrom needs to take off the range from his website and make clear that the range and business are not connected and not suggest that people come to the range.

Mr. Viens responded that the commercial issue was just a small part of the matter and that the main problems are the frequency, days and number of people doing the shooting. He asserted that the board needs to impose restrictions on these, as accessory use is the real issue, regardless of whether or not there is commercial use.

Mr. George responded that, when Mr. Almstrom returns, he invited Mr. Viens and the petitioners to have a conference and believed that much could be done. Mrs. Pedone proposed that, until Mr. Almstrom returns, perhaps no shooting on the property should be done. Mr. George asked until what date she wanted him to tell Mr. Almstrom? After some discussion, during which Mr. George did not want to answer for Mr. Almstrom, Mr. Almstrom's daughter called him, and after their conversation, Mrs. Pedone proposed that, until the April 21 ZBA meeting (Mr. Almstrom will be back before then), the hours of shooting be limited to Monday through Friday, 4 to 6 p.m., with only the family (4 people) allowed to shoot; on Saturdays, from 11 to 3, only family will shoot; and on Sundays there will be no shooting. She suggested that, during this time, because of the possibility of shooting coming from other areas, she asked the new Building Inspector (Bently Herget introduced himself) if, during these times there are any complaints, if he can find out if there are other people doing shooting? She recommended that the board vote on this and monitor it actively, and if anyone hears gunfire and it is not from Mr. Almstrom, to contact the Building Inspector to find out if it is coming from a surrounding firing range; the goal will be to have Mr. Almstrom, Mr. George and the lawyers for the petitioners to come together to a reasonable settlement, or on April 21, the board will help make that decision. Mr. Witkus asked why they cannot include the Police Department in this as a matter of disturbing of the peace, and they could go out and determine where the problem is coming from?

With no further comments from the board, Mrs. Pedone asked for a motion to vote on the aforementioned proposal, of Monday through Friday hours of 4 to 6 p.m., with only the family of four shooting, on Saturdays 11-3 with only family, and no shooting on Sundays until April 21;

if any shooting is detected, contact the Building Inspector; before the April 21 meeting both sides can come together or else they will meet again on the 21st. Mr. Benson made the motion; Mr. Femia seconded. All in favor. (Mr. George and Mrs. Pedone agreed to meet at Town Hall at 5:00 p.m., if they decide to have a meeting).

With no further business to discuss, Mr. Femia moved to adjourn the meeting at 10:55 pm. Mr. Rajeshkumar seconded. All in favor.

Respectfully submitted,

Toby S. Goldstein, Secretary

Date Accepted: _____ By: _____