

## Readfield Town Clerk

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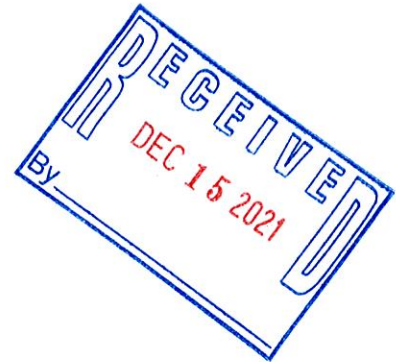
**From:** Leah Hayes <leahcordeshayes@gmail.com>  
**Sent:** Wednesday, December 15, 2021 12:14 PM  
**To:** Peter Bickerman; Readfield Town Clerk  
**Subject:** Appeal  
**Attachments:** SSMH Board of appeals - concise statement.docx; NOD SSMH final decision and findings.pdf

Dear Mr. Bickerman,

Your letter asked for a concise note. I went through the year of documents and this appears to be a list of those things that troubled us.

The board of appeals may be the best way to resolve these issues so that we may work together as a town. Sorry if this is too long. If you require any additional information, please let me know. I understand that we must prepare a brief. I will be working on that over the next week or so.

Thank you,  
Leah Hayes

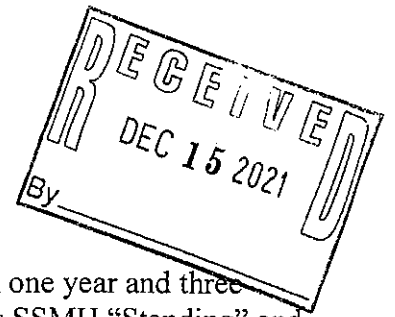


Board of Appeals

Concise Statement

### **What relief is requested?**

SSMH requested a permit in August 2020. The Town administration has taken one year and three months to consider that permit request. The Planning Board decision confirms SSMH "Standing" and legality of the requested use of a Community Center in the Rural Residential District. Nevertheless, The Planning Board decision containing alleged errors of fact, discretionary judgments denies the SSMH permit. It is our hope that the Board of Appeals may provide a variance where the public interest of Readfield may be served.



- **The Board of Appeals Ordinance states that a variance may be requested where a relaxation of terms of the LUO would not be contrary to the public interest.**

**A variance is therefore requested which will not alter the essential character of the locality - the conditions for use will follow those included in the Dec 23 2020 letter from the Town Manager ("TM"). The TM listed accepted activities for use at a community center at 26 Mill Stream Road the ("Property"). The list of activities is detailed. And the variance would also follow all conditions for use as defined within the LUO itself .**

- Remove prejudicial material from the PB website
- A SSMH Permit to occupy 26 Mill Stream Road as a community center.

### **Why it should a variance/permit be granted?**

- The Planning Board confirms : A Community Center is a legal use of the property
- SSMH organization has "standing"

**THE OLDEST BUILDING IN READFIELD  
ONE OF THE ONLY EXAMPLES OF MAINE COLONIAL LIFE  
IT DEFINES OUR FREEDOM**

**THERE IS NO OTHER MAINE COLONIAL HOUSE OPEN TO THE PUBLIC  
IT IS A READFIELD TREASURE THAT MUST BE SHARED AND CELEBRATED**

**Mill Stream - Factory Square is the Readfield Equivalent of Bunker Hill and Boston Commons  
It has been preserved to be enjoyed by the children and families of Readfield  
Colonial Soldiers mustered here and left Readfield to fight for independence (Colonial Artifacts survive!)**

**This is a "monument" to the strength and character of the original men and women who settled here.**

**One of the five "oldest houses in Maine" (1770 ca).** (Wikipedia dates The Bray House – Maine oldest 1720 Kittery) The restoration details and concepts were thoughtfully monitored by American Historian, Dr. Helen Bittar. Funding was not spared. Details were carefully studied to excite, interest and invite children and families to experience Readfield's important colonial heritage. Unlike a commercial, recreational or entertainment area, these buildings inspire and surround visitors with the present and colonial timber-frame masterpiece in which to celebrate its extraordinary architectural tradition.

The Mill Stream Project is one of the most significant Readfield historic projects designed by and for the people of this town. Its unique site and historic restoration of the dam and integration work was a collaborative effort with the town Conservation Committee. Volunteers worked at this site. Their work will endure and grow to provide a deep understanding of the Readfield contribution to American freedom, philosophy and history.

**Results of the June 6 2021 Election indicated the public support. In a rare vote of protest, voters defeated administrative effort to eliminate this community center. The vote was a declaration to protect this site for the town because of its "Public" Importance**

**Is there any more significant place in Readfield that can be said to be in the Public Interest?**

### **Alleged errors**

1. Discrimination against SSMH. Intentional town administrative delays prevented the SSMH permit application hearing for more than one year. The delays were a statement of administrative violation Federal and State Constitutional Law - Discrimination against SSMH. The acts were a violation of the town Comprehensive Plan. ("Plan") the First and most important Goal of the Plan - to preserve and maintain public access to town history These acts by Town Mgr and Plan Bd were violations of the oath of office to uphold the law of Readfield and Maine.

The constitutional claim of Discrimination raised by SSMH in September 2020 is valid for review in this appeal. In Sept 2020, The CEO referred SSMH to the Appeals Board to reverse his permit denial. In spite of the Board lack of jurisdiction, the application was serious enough for chair Bickerman, to immediately attempt to address the issue. He sent a explicit response to the TM and his CEO. To a concerned observer, that statement was a warning of the threat of implicit constitutional impropriety. Mr. Bickerman admonished the TM and CEO to follow the law. They did not. The Town Manager ("TM") delayed for 10 months. The TM sent two letters which suggested aid to SSMH but were veiled threats to SSMH. The TM threatened to taint SSMH reputation by association with a history of Bittar "illegal activity". His letters threaten SSMH linkage to an alleged Bittar criminal history and criminal enterprise.

Included in TM letters was a list of approved SSMH activities. The TM along with his CEO are knowledgeable spokesmen and representatives of town law. The TM is leader of a neighborhood Property opposition group. The list of activities which the TM presents would likely be supported by his neighbors who have sought the a minimal impact of any Property use. The TM approved activities were similar to those which SSMH felt may be requested by members. But **TM support for SSMH required that SSMH abandon fire safety protection for SSMH members. But The TM stated in his Dec 23 2020 letter that unless SSMH discontinue the Fire Safety system approved by the State Fire Marshal and its installation, there would be "difficulty" in getting a permit. He implies that he would not support the SSMH permit for occupancy of the Property.** The State Fire Marshal permit is valid for all our location in the Readfield. This demand threatened the lives of the people who would attend SSMH. The TM demand was unacceptable. It appeared that the TM is in control of the Planning Board and the definitions of the town permit process. It was clear that he would determine all acceptable SSMH activities. The TM letter was critical of SSMH use and occupancy of this Property and offered assistance in moving to other locations.

The TM December 23 Letter is 29 pages long. It begins with an offer to help SSMH. But it clear at the outset that it is a warning that SSMH must move to a different part of town or they will

suffer restrained activities, inability to function within the community, and experience hostility from the community. SSMH are stripped of all protection when the installation of the Fire Sprinkler System is used as a threatened device to eliminate their access and use of the building. TM's 29 pages of attached Bittar Stop Work Orders, Trial transcripts, and other irrelevant Bittar documents are used to suggest TM Dyer is the PB gatekeeper. He will determine what will be the "legally obtainable purposes of the SSMH". The TM concludes his demand concerning the Fire sprinkler system that any "assembly use" for a community center will not be approved. TM Dyer states a new law – a legislative edict denying the First Amendment - the Readfield Community cannot "assemble" in their community center. As he says: the request that SSMH be granted similar uses as Union Meeting House is based upon its location in the village zone. (The Village Zone is the most densely residential area in Readfield. Mill Stream Road is on a gravel road with one adjacent residence and other residences 500 – 1000 feet away. In this the TM rewrites the LUO which does not designate inequality of a community center definition and rights based on zone.)

SSMH request for a hearing by the Planning Board was never honored until we were forced to employ an attorney in March 2021. Even with an attorney it took until May 25, 2021 when the Town Manager released the SSMH application to be "considered" by the Planning Board. Was that a deliberate delay scheduled by TM Dyer to be followed by the June 6 town election? The June Election highlighted the new town law (Article 38) inspired by the TM and town boards. The new law would make community centers illegal at the Property. The voters defeated this TM/PB town agenda in a historic protest vote against the Administration.

It is clear that the delayed May25 release of the application was organized by the Town Manager along with the powerful coalition of Boards as a clever tactic to kill any permitted community center at the Property with future TM/CEO manipulations "permit infractions", retractions, and ultimate permit revocations. That plan was thwarted by the June 6 voter defeat of the law designed to kill the community center.

The town process of delay continued until the end of November when the PB rejected the permit request to use the Property. It is our contention that TM and administration manipulation, delays and discrimination continued unabated from August 2020 until November 2021 until the Planning Board completed a collection of creative "facts" which permitted an PB permit denial based upon errors of process, errors of law, a litany of discretionary proclamations and errors of "findings of facts" unsupported by evidence.

2. The Planning Board and TM Abuse of Process by assembling questionable documents on the Planning Board Website to discredit SSMH through collateral association with Bittar. The PB website documents imply and publicize as alleged illegal activities concerning the development of the Property. The PB website suggests linkage of SSMH with what they claim is illegal activity in order to prejudice the permit process against SSMH.

The PB website Property "history" implies a renegade Bittar family plot to build a commercial site at Mill Stream. The website documents attempt to illustrate SSMH criminal intent through association with Helen Bittar and Robert Bittar. **The Property is described on the Planning Board website as a clandestine criminal operation unknown and unsupported by Town Managers and CEOs. THIS IS FALSE.** Both Town Managers Stefan Pakulski and Eric Dyer knew every detail of construction plans and goals from the very start. It was to be a Community Center. They were partners and participated at every juncture. They were aware that the Bittar's plans to apply for a

legitimate Change of Use application when the structure changed sufficiently to justify such a change of use. They suggested and led Bittars to apply for a change of zoning and TM Dyer /CEO Quintal were most influential in suggesting an aggressive change of zone. Helen Bittar and Robert Bittar followed their advice. They understood the need for timing of that application. ALL Town Managers and CEOs participated in frequent reviews of the activity. Any "Stop Work Order" was answered immediately, repaired and/or dismissed by the town CEO as a misunderstanding or error.

A brief problem occurred in 2013 when Bittar bought the property. There were TWO CEOS. One CEO intervened with questionable purpose with a stop work order. That Stop Order countered the existing work permit issued by his partner CEO. The Board of Appeals approved the CEO "Stop Work Order". BUT two months later, Town Manager Pakulski conducted an administrative town investigation. TM Pakulski's email documented his investigation of the incident and summary finding concluded that there was an error. TM Pakulski was willing to support reversal of the Board of Appeals ruling. That reversal was based on testimony provided by the second CEO a site visit and factors supported by the other CEO. A meeting with all CEOs resolved that work would continue to complete the Community Center and be supported by both CEOs. It was a town supported project specifically supported in the Goal #1 of the Comprehensive Plan.

**TM Eric Dyer was brought to the site within a month after he began employment as TM. He was told about Community Center plans and provided with Stefan Pakulski's suggestions concerning its development. TM Dyer was a participant in its development until 2018.** But his statements and those of the Nov. 2021 PB Finding of Fact Document suggest that knowledge and goals of the construction at the Property were hidden from TMs, Dyer and CEOs. PB and TM Dyer deceives everyone concerning his knowledge and participation in the Property development. As TM Dyer stated in 2018, he developed a fear of the Property and its use. His fear is based on a belief that the activities at the Property (and through extension – SSMH -LGBTQ) who will attract a Readfield population who will devalue his home.

Are these references to SSMH by the PB and TM made to create, prejudice, and fear of the SSMH organization in Readfield and to result in their denial of a Permit?

3. Abuse of power ...The SSMH has been thwarted from access to town documents and email concerning Planning Board members access to information. FOAA clerks at the town office fail to respond to SSMH requests for information. SSMH has been denied access to documents concerning administration activities. We have applied to the Maine State FOAA Ombudsman who oversees activities of municipal FOAA Officers and the performance of their duties. Two Readfield FOAA Officers, Deborah Nichols and Shireen Gilman, never sent documents requested by SSMH. Both "abandoned" their position after SSMH requested town documents.

4. Abuse of discretion by the Planning Board is clear in the PB demand for construction of a "sidewalk" into the wetlands. This demand was established as an absolute required condition to receive a permit. To complete the PB imposed condition, it would be necessary for SSMH to acquire access to neighbors property through purchase or easement. It is, on the face of it, an arbitrary illogical request. The PB required the construction of a "safety sidewalk" which would have almost doubled the distance which Barn visitors would have to walk from the parking lot to the Property. The PB specifications for this path explicitly required that it be built into an unpleasant area of wetlands and mosquitoes. The PB demand would require a DEP wetland waiver as well as ground preparation: power, lighting, and completion of work was estimated at a preliminary cost of 25,000.00. **If a safety path were essential, a simple obvious practical solution would have been a small 4' path at the**

side of the current road.

The TM requested and “negotiated” this absurd requirement. The “Safety Path” had severe requirements.

**CEO Chip transmitted TM Dyer's text message requiring a safety path as a cell phone text message to the Planning Board and SSMH legal counsel. Chip wrote : “in full “transparency””? Why the words... in full “transparency”? Was it to ensure ownership of the document came from TM Dyer and remove himself from questionable requirements intended to deny involvement in this illegal SSMH permit denial act.**

**SSMH has requested An FOAA request for the TM cell phone texts concerning this sidewalk “negotiation”. SSMH hopes to determine if the TM role as Town Treasurer created leverage in dictating the sidewalk location and conditions. And if this location was absurd on the face of it, why did the PB make this an absolute condition for a SSMH permit?**

**Did TM Dyer stage this arbitrary, illogical sidewalk demand to prevent any permit for SSMH?**

**Several days later, Fire Chief Mank altered his original requested revision of the “security path”. Chief Mank delivered his revised reasonable path and map to TM Dyer. The revised reasonable 4' path was to be placed on the side of Mill Stream Road.**

**TM Dyer never sent this revised reasonable path to the Planning Board.**

**Did TM Dyer intentionally withhold this critical revision of Fire Chief Mank's “security path” from the Planning Board to guarantee denial of the SSMH permit?**

5. Abuse of Discretion is again seen in the PB **use of a U.S. survey Wetland map** . On large bodies and large pieces of land the U.S. Govt Agency Wetland Mapping Service is accurate. But **in maps which identify small 20 or 30 foot strips of land these maps are notoriously inaccurate**. The Federal Government agency itself which funded the map project declares that it's agency maps are flawed in illustrating small parcels of Wetland. There is a disclaimer on DEP government map websites which references these maps...It states that they should not **be used as “sole source” for information of wetlands without an on-site engineer/soil specialist inspection**. The DEP is so aware of the flawed reliance on these maps, it provides Wetland and Resource Protection experts when requested to assist in wetland determination.

If the validity of these maps is questioned on small parcels, Who in the Readfield administration is responsible for the submission of this flawed information as an accurate PB required rendering of 26 Mill Stream as wetlands? The PB has used this map to casually restrict use of the land without expert determination. FOAA documents should reveal the source of information.

The PB applies the vague references to property use limitations in the Resource Protection District to SSMH occupancy. The PB fails to identify specific provisions of the RP law that would identify the portions of the Property that are not available, available for limited use, or the limited nature of that use. Nevertheless, the PB uses this vague standard to deny SSMH activities in the Resource Protection District.

**MOST IMPORTANT:**

**The PB fails to consider the connected integrated nature of Town Property and Property at 26 Mill Stream Road. - The Town Dam, Dam Parking Lot, Dam trail are integrated with the 26 Mill Stream Road Property.**

The town **requested and was granted easements** to the Property which allow recreation, parking, vehicle, heavy vehicle maintenance and other activities in the easement area. Groups meet freely, lectures are held, events are held, tour buses frequent the site etc.

The PB denied/limited activities to SSMH in the Resource Protection District.

Are the rights and privileges of the town in the easement area shared equally by the Property owner and lessee?

Or is the PB Resource Protection limitations limited only to SSMH and not to the town use of the easement property?

Has the Planning Board given exclusive activity rights on the Bittar easement land only to the Town?

**Is this PB error called Illegal Taking?**

6 The Planning Board commits errors of fact which are unsupported by data.

PB Denial Page 3 Requested Use #4

PB makes statements which are not true. **PB denial document and members states that SSMH intends to offer activities to an unspecified number of people.** SSMH has provided both verbally to PB Members and in writing several times the specific number of anticipated people to be expected at meetings and evenings. The current SSMH membership is 50. This has been stated many times in writing and during every hearing. But the Board and TM advertise, the SSMH intent to create a Civic Center with 5,000 person capacity. This is absurd and illegal. **Unlike the Union Meeting House, SSMH has stated in writing and verbally that meetings and activities will not be open to the public.** SSMH By Laws explicitly state that activities will not be open to the public. The LUO states it is forbidden by the permit process to have Community Center activities open to the general public. Nevertheless, the PB statement about an inability to determine the SSMH membership attendance is used to publicize fear of SSMH-LGBTQ dishonesty and criminality?

**PB continues to provide preferential treatment to the Union Meeting House ("UMH") non-profit community center. TM's Dec 23 2020 letter states he is a volunteer worker/member of UMH. The TM arranged an Executive Session secret Select Board meeting in April 2018 to provide annual cash tax gifts, a free sidewalk bond loan. TM continues to arrange courtesy parking in town parking lots, in promise of a \$200,000 sidewalk to the town ball field parking lot. I witnessed FOAA Officer Deborah Nichols search through the PB archives in October 2020. Officer Nichols was unable to find a notification, hearing or approval by the PB of any PB review. COMPARE PB ONE YEAR INVESTIGATION OF SSMH and the TM critical statements and assault with the ABSENCE of any PB review of any activity of the UMH parking, Fire, ADA and Safety Code requirements, expanded and changing use, commercial activity, neighborhood discussion of the property, etc. Ms. Nichols departure as FOAA Officer or (was it termination by the TM?) followed shortly after she was requested to provide written summary of her findings about the UMH. As a federally appointed officer she is required by law to provide that report. The only approval of any UMH activity was given this past summer by the Select Board to sell tickets to the public for a series of summer concerts and the sale of wine beer and food during during these events. And the TM provides executive parking permission without consideration maintenance, repair or upkeep costs to town parking fields and facilities.**

**This is an embarrassment illustrating disparity in equality and process for SSMH. It is as another example of the TM administration Abuse of Process and Error in discretionary activity.**

7. **Historic town documents** concerning the Bittars and their prior activity at the Property is presented by the Planning Board to support the claim of SSMH criminality. **the PB Collateral Historic references are prejudicial and without merit.** When the public arrives at the Planning Board website Large Red letters invite Planning Board members and Readfield Residents to an edited false account of what is appears to be a semi-criminal activity of two **Readfield Community outlaws - Helen and Robert Bittar.**

The PB declares that both **Helen Bittar and Robert Bittar violated State law and Local law.** They claim to have never violated any state law. The local law the PB may refer to are stop work orders, the nature of which were very quickly removed. The final TM/CEO eviction was based on exaggerated claims of property use. And now the TM prevents his return and use of his property by requiring acceptance of "Consent Order" demands which deny his First Amendment constitutional rights.

**BUT THE BITTAR HISTORY IS IRRELEVANT to the issue of the SSMH Permit Application for a Community Center at 26 Mill Stream Road! SSMH is a legal separate corporation. It has no history at the Property until its application in August 2020. SSMH has a legal right to use the Property.**

**Through collateral association, the PB suggests that the SSMH reputation is also criminal.** The PB website lead the town, PB members and others to believe in the inherent criminality of the SSMH organization as an LGBTQ criminal enterprise. The Readfield Planning Board and TM WEBSITE is a billboard announcing SSMH criminality. These Planning Board Website declarations activities have been prejudicial to SSMH and its permit application.

**SSMH is an independent non-profit entity. It has no relationship or connection with the activities at Mill Stream prior to its 2020 application to obtain a Community Center permit. Property history is irrelevant to SSMH membership, organization and mission. Historic references concerning Bittars are inaccurate, false and designed to create a sense of distrust and suggested illegality of the SSMH mission as well as its LGBTQ and minority focus.**

False and manipulated "Facts" concerning the activities of Helen Bittar and Robert Bittar may be considered during a trial of the facts. Mrs. Bittar (a scholar and professor ) is deceased. Helen Bittar and Robert Bittar were Readfield philanthropists. Mr. Bittar is not a member of SSMH. His great interest is to have this site available to SSMH. Their sole interest in the Mill Stream Restoration project is and has been philanthropic. It has never been commercial. Current interest by Mr. Bittar is focused on the success of SSMH and its ability to occupy, insure and protect the Property.

8. PB expressed concerns SSMH disturbance to the abutting neighbors at 20 Mill Stream Road  
PB Findings of Fact Pg 4 B. Issue 3  
PB Findings of Fact Pg. 6 Issue 11

ABUTTING Residence 20 Mill Stream Road

The landlord has taken extensive measures in noise abatement. 6" of sound insulation line the outside walls as well as all internal walls. Sound engineers tested the facility several times to document and ensure its sound proofing.

Nevertheless, throughout the hearings and in all discussions in the past year the administration, neighbors and The Planning Board focused on noise, annoyance, nuisance noise which "would undoubtedly cause noise to travel to the closely abutting residence on Mill Stream Road..." There is



also the “noise and annoyance caused by substantial foot and vehicle traffic going by the closest abutting residence, none of which was previously a concern for this abutter due to its location on a quiet road with only two residences.”

**THE NEIGHBORS AT 20 MILL STREAM ROAD HAVE SPOKEN.** They submitted a statement stating no objection to:

1. activities at 26 Mill Stream Rd if they end at 10 PM.
2. Sound from activities at the level of a conversation (57 Db.)
3. foot traffic ( they provided an easement for a path bordering their property on Mill Stream Road)
4. We agreed to request the town to install NO PARKING signs on both sides of the Mill Stream Road to ensure the safety of their two small children from vehicles traveling on the road. And if the town were unwilling to designate the street as a NO PARKING ZONE...we would purchase our own No Parking Courtesy Signs to be planted along the entire street.
5. We have also discussed concerns they have with the current the Town Easement. There appears to be hunting and targeting in the area in the overlook area. This area has been granted by the Bittars to the town as a public easement for recreation. We would like the area more vigilantly monitored to prevent this type activity. They would also appreciate more explicit signs which prohibit hunting and targeting in this area.

The 20 Mill Stream Road neighbors believe that if we work together there will be no problems with the activities at 26 Mill Stream Road which will concern them. They are assured them that any concern expressed by them will be immediately addressed and eliminated.

SSMH will be vigilant. This is a wonderful family. We are very pleased that they are neighbors with us. If our neighbors with an infant son are disturbed by any activity it will stop. We are eager to form a partnership with our neighbors.

9. In 2018, the Readfield attorney wrote with disbelief of Readfield “public officials who conspired in bad faith to...wrest constitutional rights” from a Readfield resident.

It is 2021. Do we again witness this same team return with a similar purpose?

**In 2018 Town Manager and powerful neighboring public officials conspired to lie to the Maine State Fire Marshal and State Investigating Officers in order to evict Bittar from his home. The Maine Fire Marshal and Investigating Officers did not believe their false statements.** They refused to act. (Bittar lived at the Property where he held a piano concert to celebrate the life of his dead wife and where he continued to live and play music in this redecorated home for two months with a few people until evicted by the Town Manager / CEO.) CEO Gary Quintal will testify to 2017-8 pressure of the TM requiring him to act improperly against the property owner, Bittar. Quintal signed and submitted a document declaring his innocence in these activities. That document remains in the Town Office but is unavailable because it has been placed in Quintal's “Personnel File”. CEO Quintal's signed Non-Disclosure Document prevents his testimony except when requested by the Town Board of Appeals and State Court. Other town employees may also be persuaded to speak about pressure to prevent actions to assist SSMH property rights. FOAA Clerks have been requested to speak and their rights and service investigated to determine unwarranted pressure by town administration. In a court fact finding, these activities will be revealed.

**Did Dyer/Nazar conspire to link SSMH to the development of a feared illegal Civic Center and Indoor Theater?** These objectives, **Civic Center and Indoor Theater**, were never a stated, suggested

or written objective of SSMH. Nevertheless, it is repeatedly referenced by Dyer and the PB. It is an attempt to prejudice the committee and the public against SSMH. It is used to link SSMH to an illegal objective. A Civic Center or Event Center is synonymous with a 10 acre site with a capacity of 5 000-7000 people resulting in traffic jams, pollution, crime, uncontrolled night life, and as one man testified... his "fear of rape". Why have PB members used pejorative terms to threaten the Readfield public with imagined neighborhood crimes by a permit applicant? Was this "threat" used in concert with the reference to the questionable attack upon the Resource Protection District with inaccurate maps and limitations? Were questionable references to the questionable Resource Protection Map and restrictions presented by the Dyer/ Nazar team to the CEO to be forwarded to the Planning Board as the second prong of an SSMH assault?

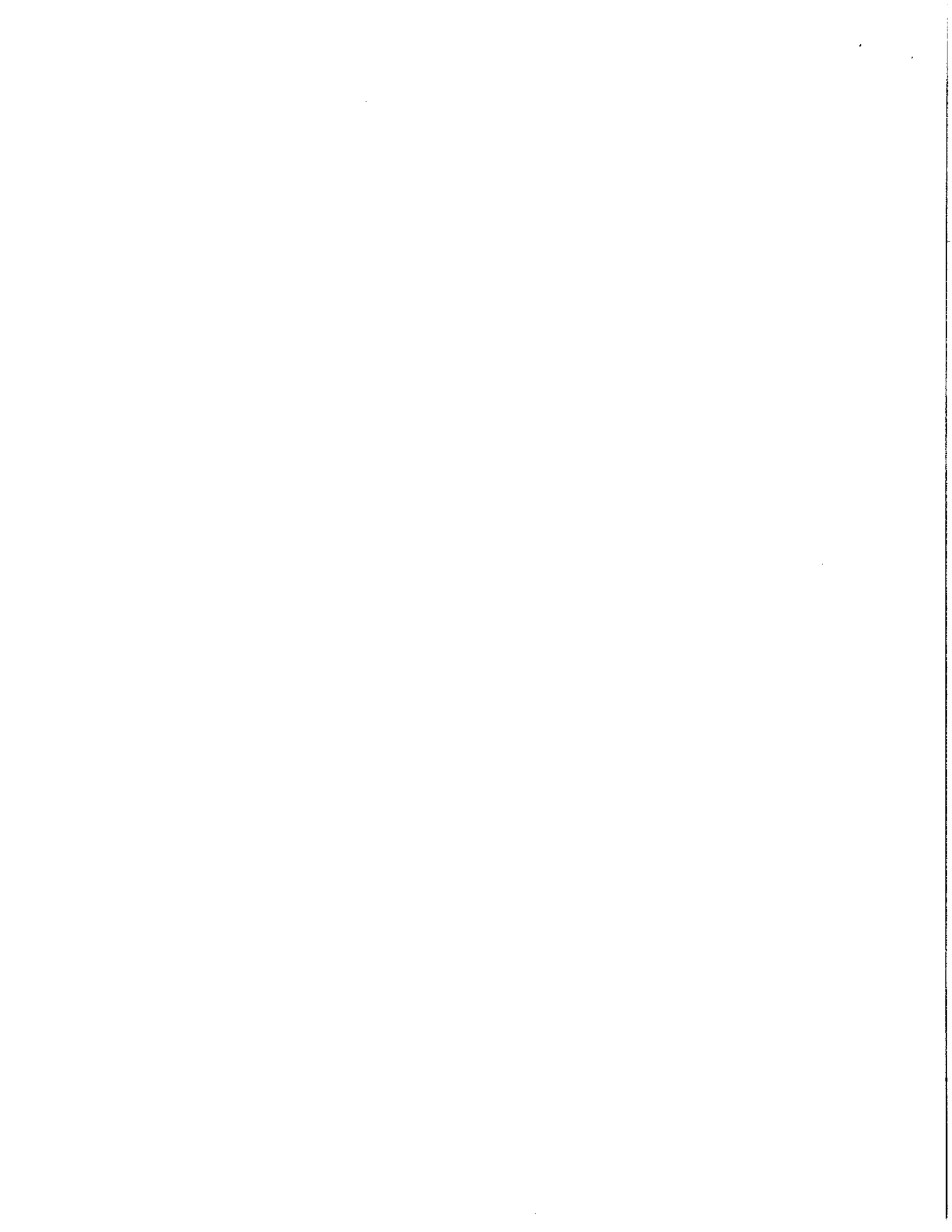
Is any defense of SSMH possible when weighed against questionable activities of men who conspire to use false information to subvert the legal property right of occupancy? This same team committed a similar act in 2018. They called the State Fire Marshal requesting a raid and eviction of a neighbor who played music. They claimed he created a commercial site in his home at 26 Mill Stream Road that his activities and building threatened the life and safety of children. State Investigators investigated in 2018. Officers declared they were given false information by TM Dyer. The incentive has not changed since 2018. Have the men who provided false information in 2018 again allied to perform another "eviction" in Readfield? Has this Readfield conspiracy targeted the SSMH organization which the Planning Board itself states has a legal right to occupy 26 Mill Stream Road as a Community Center as permitted in the LUO? Is this conspiracy designed to disparage the reputation of the SSMH as a law abiding legitimate group? Is it designed to create a prejudiced view and threaten exposure and publication of SSMH as an organization with outlaw intent? In this way SSMH will have been denied access to the town community by a small group of influential people.

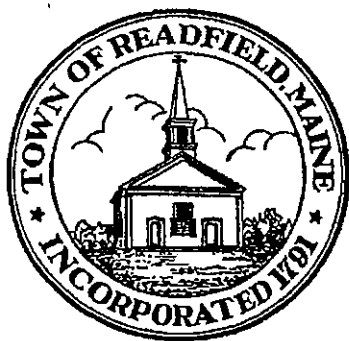
Personal reasons of a few people prevent this site from public use as Readfield's shining moment in  
American History.

Helen Bittar saw its importance for the town and its children. It was their Alice in Wonderland  
Looking Glass into the magic of Readfield.

**The voters of Readfield reversed town law in the historic June vote and declared:**

**This Community Center is in the public interest of the entire town at this critical time in its  
history.**





## TOWN OF READFIELD

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Website: [www.readfieldmaine.org](http://www.readfieldmaine.org)

### Town of Readfield Planning Board

#### FINDINGS OF FACT AND DECISION

Safe Space Meeting House

Application for Community Center / Club

26 Mill Stream Road, Map 120, Lot 13

#### I. History of Application

The above referenced application for a Community Center or Club was filed by Safe Space Meeting House (“SSMH”) on August 25, 2020. The applicant engaged with the Town’s Code Enforcement Officer (“CEO”) through September and October of 2020 regarding information and materials needed to complete the application prior to its placement on the Planning Board’s agenda. On October 21, 2020, SSMH appealed the CEO’s completeness determination to the Board of Appeals. The Board of Appeals informed SSMH that it lacked jurisdiction to review the matter and did not hear the appeal.

On March 20, 2021, SSMH resubmitted its application through agent/attorney Mitchell & Davis. SSMH engaged in further discussion with the CEO regarding completeness of the application and provided supplemental materials upon request. SSMH submitted the application fee on May 3, 2021. The Planning Board considered the application at a meeting on May 25, 2021 and again at a regular meeting on June 2, 2021 at which time the application was found to have met the basic submission requirements of the Readfield Land Use Ordinance. Supplemental information was submitted by SSMH in July and the Planning Board initially reviewed that information at its July 27, 2021 meeting. A site visit was held on August 24, 2021 and a public hearing was held on August 25, 2021. A final hearing was held to complete deliberations on September 28, 2021. Chair Paula Clark, Vice Chair Jack Comart, and Members Donald Witherill, William Godfrey, Jan Gould and Henry Clauson were in attendance. Member Bill Buck was also in attendance but, due to technical troubles, was unable to participate in deliberations. These Findings of Fact were made at a meeting held on November 3, 2021. All meetings were held via Zoom or hybrid Zoom/in person in accordance with PL ch. 617 (129<sup>th</sup> Legislature), effective prior to August 1, 2021, and in accordance with the Town’s remote meeting policy and 1 M.R.S. § 403-A thereafter.

#### II. Summary of Project

The property at 26 Mill Stream Road is located in the Rural Residential District and partially within the Resource Protection District. It was last lawfully used as a single-family residence.

This property has a significant history that is relevant to the uses proposed by the current tenants. In 2015, the property owner, Robert Bittar, received a permit for expansion of the nonconforming single-family structure. In 2016, Mr. Bittar applied to the Planning Board for a change of use to an event and community center, which permit was denied. Mr. Bittar subsequently entered into a consent agreement with the Town in 2017, which required that the property be used only as a single-family dwelling with any change of use to be reviewed and approved by the Readfield Planning Board. Mr. Bittar applied for a change of use to a Community Center/Club/Association in 2018, which was denied, finding that the proposed use was not consistent with the definition of "community center, club." Mr. Bittar then sought a zoning change to allow his proposed use, which was found by the Planning Board to not be consistent with the Town's Comprehensive Plan. Due to Mr. Bittar's repeated holding and advertising of concerts, the Town revoked his occupancy permit. The Kennebec County Superior Court upheld both the Code Enforcement Officer's revocation of Mr. Bittar's occupancy permit and the Planning Board's decision that the proposed rezoning violated the Comprehensive Plan by an order entered February 28, 2020.

The present application was submitted by SSMH, which holds a lease for the property from owner Robert Bittar. SSMH is a registered Maine nonprofit corporation. The initial SSMH application describes the intended use as "a historic venue for cultural events and meeting place for residents, their relatives and friends. The member's only access will provide the necessary 'safe quality of association'. It will help create a community among those people who share common interests. The historic venue will be an ideal setting for cultural events." In addition to these events, the application describes use of the space for "member meetings and activities." SSMH's Addendum to its application dated April 28, 2021 characterizes its proposed use as a "community center that will provide nonprofit, non-commercial activities and recreational opportunities for Readfield's diverse population of LGBTQ residents and other residents of diverse genders, religious affiliations, nationalities and ethnic groups, to be physically active, interact with, and support other LGBTQ residents."

During the hearings, members of the Planning Board inquired about the expected maximum occupancy for the planned uses and the applicant did not provide any specific number. The applicant proposed in application materials that parking would primarily be achieved through off-site parking located between Rte. 17 and Mill Stream Road which the applicant says would serve 35 vehicles, with additional parking to be provided on site. Materials filed just prior to the September 28 meeting depict 54 spaces in an off-site lot and 19 spaces in the on-site lot, for a total of 73 proposed parking spaces.

### **III. Jurisdiction**

The Planning Board concludes that it has jurisdiction to hear this request for change of use to a Community Center/Club by virtue of Article 6, Section 3(A) of the Land Use Ordinance ("LUO"), which requires site review of all land use activities that require Planning Board review. Article 7, Section 5 requires Planning Board review for a Community Center / Club in the Rural Residential District. This application also seeks a change of use of a nonconforming structure from single-family residence to Community Center / Club, which the Planning Board has jurisdiction to review pursuant to Article 3, Section 4.

### **IV. Standing**

The Planning Board concludes that the applicant, SSMH, has standing to apply for the requested permits pursuant to its lease with owner Robert Bittar.

## V. Findings and Conclusions

At its meeting held on September 28, 2021, the Planning Board discussed each of the relevant approval standards and came to preliminary conclusions regarding whether each had been met. This discussion is summarized and formalized in the following Findings and Conclusions, which were officially approved by vote of the Planning Board on November 3, 2021.

### A. Requested Use

1. SSMH requests approval as a Community Center/Club. That use is defined as: "A building that houses any voluntary association of persons organized for social, religious, benevolent, literary, scientific, or political purposes; whose facilities, especially a clubhouse, are open to members and guests only, and not the general public; and are not engaged in activities customarily carried on by a business for pecuniary gain."
2. The uses of "Civic, Convention Center" and "Indoor Theater" are prohibited in the Rural Residential District.
3. The uses of "Community Center/Club," "Civic, Convention Center" and "Indoor Theater" are prohibited in the Resource Protection District. SSMH leases the entire structure, including the portion which falls within the Resource Protection<sup>1</sup>, and has not suggested that its activities could or would be constrained to areas of the building or property that fall outside of the Resource Protection District. The on-site parking proposed by SSMH is located within the Resource Protection District, as are portions of the property on which SSMH indicated it would be holding outdoor events.
4. SSMH intends to offer concerts, dances and similar events to an unspecified number of people. It was unable to articulate during the hearings any way in which it would constrain these events to members and bona fide guests in a way that was commensurate with the scale of the targeted membership for Readfield's LGBTQ residents. Public comments from the property owner indicate that the intent is to serve and entertain all Readfield residents.
5. The Planning Board cannot ignore the fact that the owner of the property has throughout the application process been sending town-wide mailers promoting approval of the present application so that weddings, music festivals and concerts, dances and food events could be held at the property. Given the long history of attempts to use this property as an event center and concert hall, these statements seem indicative of the true intended use of the property, and appear to elaborate upon the types of "cultural events" alluded to in the application. Such events more closely fall under the terms "Civic Center" or "Indoor Theater," which are not permitted in the Rural Residential Zone. It is noted that Article 7, Section 5 provides that uses similar to prohibited uses are prohibited.
6. While there may be intended use of the property that is more in keeping with the definition of "Community Center/Club," the Board finds it impossible given the applicant's lack of clarity as to the day-to-day functioning of the club to distinguish which types of planned activities would appropriately fall under this definition and which would not. As such, it is impossible to grant partial or conditional approval for the application in a way that would give adequate clarity to the applicant and the Town.

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<sup>1</sup> Ref. "26 Mill Stream Zoning Map," included in record.

Conclusion: The Planning Board therefore finds and concludes that the application seeks approval for uses that are not permitted in the Resource Protection District, and that its proposed uses within the Rural Residential District do not fall within the definition of a permitted “Community Center/Club.” The application must therefore be denied on these grounds.

#### **B. Change of Use of Nonconforming Structure (LUO Article 3, Section 4)**

1. Article 3, Section 4(D) allows a change of use of a non-conforming structure to another use only if the Planning Board “determines that the new use shall not have a greater adverse impact on the water body, tributary stream or wetland, or on the subject or adjacent properties and resources than the existing use.”
2. The subject structure is legally nonconforming due to its failure to meet the required setback from Mill Stream and its associated wetland, and from Mill Stream Road. These facts were conceded to by the property owner, Robert Bittar, in 2015 when he requested and received approval for expansion of the nonconforming single-family structure.
3. The application proposes substantial vehicle and foot traffic to the property, with parking to occur within the required setback from Mill Stream and the associated wetland, and within the setback from Mill Stream Road. The proposed use of this area for parking would, with reasonable certainty, have a greater adverse impact on Mill Stream than the existing use through soil compaction, additional runoff and potential pollution from vehicle fluids. It would also increase the intensity of use within the setback from Mill Stream Road. Even with noise mitigation in place, the noise caused by the proposed events, and noise and nuisance caused by vehicles and traffic going to those events, will cause greater impacts to the abutting residential properties than the existing use. Direct abutters as well as other property owners in the vicinity, credibly testified that noise from prior events was disruptive and expressed reasonable concern about traffic, trash and other nuisances.

Conclusion: For the foregoing reasons, the application fails to meet the approval standards under Article 3, Section 4(D).

#### **C. Site Plan Review Criteria (Art. 6, Sec. 3(C))**

As to the site plan approval criteria in Article 6, Section 3(C)), the Planning Board finds and concludes as follows:

1. Aesthetic, Cultural and Natural Values. Although there was some discussion in the hearings regarding how this proposal might impact plans to designate Factory Square as a historic location, this designation has not been made. The Board concludes that this criterion is met.
2. Conformity with Local Ordinances and Plans. As found above, the proposal requests uses that are not permitted in the Rural Residential District or Resource Protection District. It also does not comply with Article 3, Section 4(D). The Board concludes that this criterion is not met.
3. Erosion. No issues were raised regarding the potential for soil erosion or a reduction in the land’s capacity to hold water so that a dangerous or unhealthy condition results. The proposal does not call for significant earth moving. The Board concludes that this criterion is met.

4. Financial Burden on Town. The Fire Chief recommended that a sidewalk be installed at least 10 feet from the traveled edge of the road in order to provide safe pedestrian access from the off-site parking to the building. Whereas the owner and tenant do not have rights to the property on which this work would be required, the financial burden of installing the sidewalk would fall on the Town. The proposal would also cause excessive wear and tear on Mill Stream Road, a gravel/dirt road, for which the maintenance responsibility and therefore financial burden would fall on the Town. The Board concludes that this criterion is not met.

5. Financial and Technical Capacity. Because of the nuance in what uses might be permitted as a Community Center/Club and what uses would not be permitted in this District, it would take a high level of planning, oversight and control to ensure that no violations of the Ordinance occur. The applicant has not demonstrated the existence of a management structure, particularly for events, that would help ensure that they are kept strictly to members and bona fide guests. Further, the applicant has not provided the estimated cost of this project nor evidence of financial resources to ensure its ability to build out the required parking areas. The applicant submitted proof of \$3,000 in its checking account which does not meet the reasonable expectation of what that work may cost. The Board concludes that this criterion is not met.

6. Flood Areas. The property is not in a designated flood zone. The Board concludes that this criterion is not applicable.

7. Wetlands. The Board notes that portions of the property in which parking and a portion of the structure are located are within the setback from Mill Stream and the associated wetland. The activities, particularly in the parking area, are reasonably likely to cause additional soil compaction and associated runoff and potential for pollution of Mill Stream and the wetland. The Board concludes that this criterion is not met.

8. Groundwater. There is no reason to believe that this proposed use will cause adverse effects on the quality or quantity of groundwater. The Board concludes that this criterion is met.

9. Municipal Solid Waste Disposal. No evidence was provided that the proposed use would generate an unusual quantity or quality of waste. The municipal transfer station will be used. The Board concludes that this criterion is met.

10. Water Supply. The proposed use is adequately served by an existing private well. The Board concludes that this criterion is not applicable.

11. Adjacent Land Uses. Although the applicant states that it has installed soundproofing, the types of concerts, dances and other events proposed by the applicants would undoubtedly cause noise to travel to the closely abutting residence on Mill Stream Road as well as to other adjacent properties. Testimony from these owners demonstrated that prior events had caused nuisance noise. There will also be noise and annoyance caused by substantial foot and vehicle traffic going by the closest abutting residence, none of which was previously a concern for this abutter due to its location on a quiet road with only two residences. The Board notes the stated purposes of the Rural Residential District as being "more restrictive in terms of allowable uses, and primarily seeks to accommodate low density residential use, agriculture and forestry operations which are compatible with the preservation of Readfield's rural character and which are protective of sensitive natural resources and scenic/visual quality." (Art. 7, Sec. 4(A)(4)). The applicant proposed no constraints on the type or frequency of events, or on the number of attendees, that would assure the Planning Board that those events would be of a scope or scale in keeping with the District and the neighborhood. The proposed use and its off-site parking would surround the closest abutting residence with higher



impact uses and have an adverse impact on other adjacent properties. The Board concludes that this criterion is not met.

12. Pollution. No evidence was presented as to the application's inability to meet the standards of this section. The proposed use does not involve activities that would reasonably be expected to cause pollution. The Board concludes that this criterion is met.

13. Waterbodies. As found related to standard #7, portions of the property in which parking and a portion of the structure are located are within the setback from Mill Stream and the associated wetland. The activities particularly in the parking area are reasonably likely to cause additional soil compaction and associated runoff and potential for pollution of Mill Stream and the wetland. The Board concludes that this criterion is not met.

14. Wastewater Disposal. The applicant submitted that it would be installing a new subsurface wastewater disposal system which would be in conformance with the standards for "dance barns." The system was designed for a maximum capacity of 351 people, which the applicant states it would never have on the property at one time. The Board concludes that this criterion is met.

15. Stormwater. The applicant provided no specific construction plans for the off-site parking and no plan for stormwater management. The Board concludes that this criterion is not met.

16. Sufficient Water. Based upon a statement from the well driller, the existing well provides ample water for the proposed use. The Board concludes that this criterion is met.

17. Traffic. While the specific number of vehicle trips is impossible to calculate given the lack of specificity as to the scope and scale of the planned uses, it is not unreasonable to expect dozens of vehicle trips during events. The Fire Chief indicated that without an installed sidewalk, access for pedestrians would be unsafe. Further, the number of vehicles on Mill Stream Road would be unreasonable given the residential location and the fact that the dirt/gravel construction is not suited for heavy use. The Road Commissioner also indicated that having a large volume of vehicles entering a five-way intersection from Mill Stream Road was hazardous. The Board concludes that this criterion is not met.

18. Legal Access. The property is served by a town road, which provides legal access to the property. The Board concludes that this criterion is met.

19. Impact on Adjoining Municipality. The property is solely within Readfield. The Board concludes that this criterion is met/not applicable.

20. Life and Fire Safety. The Fire Chief commented on the proposed application and stated that Mill Stream Road is really a carriageway that is insufficient for emergency vehicles. He commented (as stated above in #17) that safe pedestrian passage would require installation of a sidewalk at least 10 feet off the edge of the traveled way, to allow for safe passage of emergency vehicles. Because the applicant does not have the required legal interest in the land where such a sidewalk would be installed, the Board concludes that the Fire Chief's recommendations cannot be met and that this criterion is therefore not met.

21. Violations. While the property has been the subject of a Stop Work Order and rescinded occupancy permit, the violations that led to these actions are not presently occurring. The Board concludes that this criterion is met.

22. Compliance with Timber Harvesting Standards. The Board concludes that this criterion is met/not applicable.

23. Road Construction. The proposal does not include road construction. As such the Board concludes that this criterion is not applicable.

#### **D. Article 8 Applicable Criteria**

Section 15. The applicant presented no lighting plan to demonstrate that there would be adequate exterior lighting to provide for its safe use during nighttime hours. There was no discussion of whether or how the off-site parking would be lighted for safety. The Board concludes that this criterion is not met.

Section 16(B)(1). While there was no information submitted during the hearing, the applicant clarified during the findings process that solid waste would be stored in an enclosure to be built. The Board concludes that this criterion is met.

Section 17. Section 17(B)(1) requires parking areas to meet setback requirements to the greatest practical extent. Despite several requests from the Planning Board for additional information, the parking plan is not sufficiently clear to allow the Board to determine if the parking area(s) comply with Town standards. Section 17(B)(2) requires parking areas to be adequately sized for the proposed use. Without knowing the anticipated maximum size of events, the Board cannot determine whether the proposed parking is adequately sized for the proposed use. The parking plan also does not legibly depict where individual spaces or aisles would be located. The Board concludes that this criterion is not met.

Section 18. This section pertains to new development (physical changes to the land). The proposal does not involve new construction of driveways. As such, the Board concludes that Section 18(C) is met/not applicable.

Section 19. Resource Protection Standards. The applicant proposes a new/expanded parking area at the structure which appears to stretch into the Resource Protection District and within 75 feet of the normal high-water mark of Mill Stream and the associated wetland. That parking area therefore cannot be constructed without obtaining a State Natural Resources Protection Act ("NRPA") permit. The submitted parking plan does not demonstrate conformance with the cutting and clearing requirements of Section 19. The Board concludes that Section 19 is not met.

#### DECISION

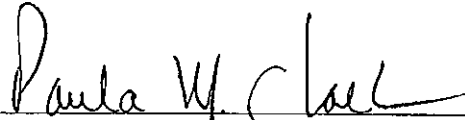
Based on the above findings of fact and conclusions of law, the Planning Board finds that the relevant approval standards have not each been satisfied, and hereby DENIES the application by motion and vote of 7 to 0.

#### NOTICE OF APPEAL RIGHTS

This denial may be appealed pursuant to Section 7(A) of the Town of Readfield Board of Appeals Ordinance by filing a written notice meeting the criteria of Section 11 of said Ordinance within 45 days of the date of this written decision. The applicant or other interested party seeking to file an appeal is strongly advised to consult the Board of Appeals Ordinance for further guidance in making an appeal.

Duly authorized by vote of the Planning Board taken on November 3, 2021, at which the Chair was directed to sign and transmit the above as the official Findings and Conclusions of the Planning Board on this matter.

Dated: November 3, 2021

  
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Paula M. Clark, Chair