

Town of Hamilton  
Planning Board Meeting  
Tuesday, April 13, 2021, 7:00 PM  
Via Zoom

**Present:** Travis Dubois, Mary Galvez, Elaine Hughes, Michael Welshko, Bettyann Miller, Planning Board Alternate, Kathleen Palmer, Deputy Town Clerk Elisa Robertson, CEO Mark Miller, Town Attorney Nadine Bell, Town Clerk Sue Reymers

**Absent:** 0

**Others:** Vicki and Harris Griffin; Cathy and John Oates; Debbie Zahn; Hannah Frederick; Michele Harvey;

Steve Skollar; Tamie Leslie; Vincent Rossi, esq.; Mary Purdy; Beth Dubois; Eve Ann Schwartz; Mike Dunham; William Heitz, esq.; Allie Dunham; Suzie Gustafson; Jeff Clark; Darrell Griff

7:04 pm Chairman Mike Welshko calls the meeting to order.

**Old Business:**

**Jesse Magrath; Subdivision Application, Preliminary Review, Earlville Road, Tax Map #199.-1-6.111 and 199.-1-6.113**

The Chairman explains that this is the subdivision that was before the board last month that was approved. The surveyor is not in attendance tonight, however, the map has been changed due to some structures on the property. The lines have been changed to accommodate for the buildings, a pool, and setbacks.

Deputy Clerk Robertson puts the maps on the screen for the board.

The original proposal had the lot line going through the shed and inadequate setbacks for the pool as well. Map needs to be approved again due to these minor changes.

Chairman Welshko asks the board if they have any questions or comments.

**Resolution 2021-26: Motion to approve Unger map change to clarify a lot line revision to account for buildings and pool.**

Motion: Mary Galvez

Second: Travis Dubois

Vote: YES – 5                      NO - 0

ADOPTED

**AMD Holdings; Special Use Permit Amendment, Public Hearing, Poolville Road Tax Map # 184.-1-35,36,37.**

Chairman Welshko asks the applicant to give a brief overview of the project; what the existing operation is and what is the request for change. Ms. Allie Dunham explains the current use for the Barn. She continues to explain that due to covid they have had a difficult year and they are trying to make things a bit easier and safer. They would like to expand their operation to include outdoor ceremonies. Expanding to allow small portions of the event to be outside. They are currently limited to holding events inside the barn; they have had many requests for outdoor ceremonies, to enjoy the scenery.

The board reviews the Madison County GML 239 response to the project. The Deputy Clerk puts it on the screen after a few technological challenges. A few minutes are given for the audience to read what the county's comments are. The Chairman then reviews the county's comments with the board. (please see document) The application is returned to the Town of Hamilton for local determination.

Town Attorney Nadine Bell clarifies: "If I can just add to your explanation, which was very helpful, but I know there are a number of people who are present this evening and I just wanted to provide a little bit of an explanation. Because the zoning process is not intuitive; this is not something that people have a natural understanding of."

Nadine Bell: "The GML referral; it's known as general municipal law section 239. whenever an application for special use permit, subdivision, use variance, or site plan is within a certain number of feet of a municipal boundary or a State road or a county road or state park something like that, that triggers the review by the county. Not everything is automatically reviewed by the county planning department, the purpose under the GML 239, for their review is to make a determination, whether there are any inter-municipal impacts that are presented by an application. So, that's why, when you see it, the above the comments, where it says return for local determination. That means it does not have any inter-municipal impacts, but the comments below are things they are just recommending that the planning board consider, as part of their deliberations."

Nadine Bell: "If they wanted to have the planning board take things into consideration and require that they do; that they take it into consideration, not just a suggestion. Then they are modifications, and modifications, a municipality or in this case of the planning board, would have to address what the county planning department proposed or recommended as a modification and they would have to have a supermajority to overrule it."

Nadine Bell: "In this case, because it was returned for local determination, there is nothing that the county planning department is saying has to be done. These are comments for the consideration of the board to keep in mind, while they review this application. So, I just wanted to provide that explanation because, like I said that's not intuitive, and it may be helpful when people review this."

Chairman Welshko thanks her.

**Resolution 2021-27: Motion to open the Public Hearing regarding AMD holdings application for a Special Use Permit Amendment.**

Motion: Bettyann Miller

Second: Mary Galvez

Vote: YES – 5                      NO - 0

ADOPTED

Chairman Welshko makes a list of all the members of the public that wish to speak. Each member of the public will be given 3 minutes to speak. Nadine Bell reminds the Chairman that generally, with public hearing, it is recommended that all comments be directed to the board, all the comments are heard; and at the end the comments can be addressed. If anyone feels that their question went unanswered, there may be an opportunity after that. The Chairman asks the public to only bring it up if their question was not answered; NOT if they just did not like the answer.

Mr. Vincent Rossi: "Thank you, Mr. Chairman. The proponent of the application kind of made a vague reference to doing things outside, but the actual narrative dated February 25, 2021 talks about things that are going to be done outside; ceremonies, vow exchanges, photo shoots, picnics, cookouts, lawn games, food trucks, cocktail hour, outdoor seating, campfires, yoga, Community gatherings, hop tours, and vow exchanges. A dramatic expansion beyond what was previously permitted."

"She also proposes temporary structures, without telling us where the structures are going to be, or what they're going to consist of: tents, arbors, gazebos, tables, chairs, picnic tables, arches, hay bales, cornhole, lawn games, food trucks, so on and so forth."

"Mr. Chairman, indicated that, I think, that this board is treating this application as an outdoor entertainment recreation, which is number 47 on the schedule. Under that, I interpret the law to say that that's got to be done by site plan review. Because there's an "S" for that and I'd ask the board to require that, which I think would mean that the applicant would have to show..."

"Well, I don't mean to tell you what it means, but you know, that it means that they have to specify where these things are going to be done and how they are going to be done. But I think the most important thing was, your code enforcement officer very kindly sent me the noise study that was done by Mr. Andres on September 4, 2017. With regard to the prior application, and in that noise study the engineer Andres generated noise at 100 decibels on the dance floor."

"He projected and most important, when he did that test the doors were closed, and with the doors closed, it was 72 decibels at the edge of the road. And, it's a little bit hard to interpret exactly what he's saying, but it's looking, he looks like he's saying that it's eight decibels above ambient at the various residences nearby. The DEC rule of thumb is no more than six decibels

above ambient. And I think the single most important thing I'd like to stress to the Board is in this application; under sound levels, the applicant is proposing rather than complying with the 51 decibels and the 44 decibel maximum. The applicant is proposing 10 decibels above that. Far beyond what the DEC says is annoying to the neighbors. Thank you."

Chairman Welshko thanks Mr. Rossi. He would also like to let the public know that the Town received seven letters that were distributed to the board for their consideration, they will be entered into the record, and that they will be available to view when the minutes of this meeting are posted.

Mr. Jeff Clarke: "Hi my name is Jeff Clarke, I want to thank the Hamilton Town Board for taking public comment on this. I grew up in Hamilton I've known the Dunham family for over 50 years. My parents have lived continuously in Hamilton Lois Rainsford, Donna and Jim Clark since 1962. I own 252 acres within a mile of the Dunham property. I've made significant investments, both in Hamilton businesses and philanthropicly in Hamilton."

"And I strongly, strongly, support this application for a special use permit. I can't imagine what would be better for Hamilton then to have another entrepreneurial business starting. And the people who have the pleasure of being married and having a wonderful ceremony in Hamilton, New York. It's, for me, it's exactly what this town needs; and it's, and I'm very pleased the Dunham's are willing to make the investments to bring this economic benefit to bed and breakfasts, to local restaurants, to hotels, and to the tourism of Madison county."

"Again, everyone's going to benefit from this, from an economic perspective, and as a neighbor I welcome the noise of happy people enjoying the wedding. I think we need to support our residents who want to invest in the Community and improve the tax base, I know that's not three minutes, but I'm ready to hand it off to the next people."

Chairman Welshko thanks Mr. Clarke.

Mr. Steven Skollar: "Hi, thank you for hearing me out. I'm the closest neighbor of everyone across the street. I literally live across the street; I own 40 acres. Literally right across the street, the new venue that they want to put up, I can literally see from my house."

"My first thing I wanted to say is in 2017 this thing was sold to everyone, as... it was, the neighbors wouldn't hear it, because of sound. The first thing that that subsequently after this has happened, the front doors situation. I didn't know what happened, but I was promised that the front doors would be closed, and also have double doors so there would be a deadlock between."

"So, if somebody wanted to come out of the front doors of the barn there would be a sound buffer as far as I know, no doors were ever put in and people were not supposed to be outside. As far as I know, a clerical error happened and, for some reason they've ruled in favor of the Dunham's for this. I can't imagine why that happened, if you all knew it was a clerical error, why would you rule in favor of the Dunham's because of this. They, they said that."

"They would be, um, I don't understand that, you know, my property values are going to be shot, because no one wants to live across the street from this, what if they want to put a Ferris wheel up or a roller coaster? It just seems totally unfair; I don't understand what happened. It's, it's all of a sudden, a business across from me."

"My property values, as I said, are shot. My biggest concern... I would like to not have hard feelings with my neighbors. I never had hard feelings with Allie's great grandmother or her grandfather for 30 years I've been there, and I'm...this this all of a sudden came up. I would say to Mr. Clarke, would you want it across the street from you, I would say to any of you board members would you want it across... you would? So that they should put it across from your house, then."

Mr. Jeff Clarke: "Happy to buy it from you. I'd love to own that property."

Mike Welshko, PB Chair: "Please, please, no interruptions Thank you."

Mr. Steven Skollar: "OK, so again, I would love to deescalate this, the bad feelings with my neighbors, it's a question of sound for me it's always been a question of sound, no one has ever addressed that. It could be remedied."

Ms. Hannah Frederick: "Yes. Okay, thank you for letting me speak today. I'm a local business owner, I'm a professional wedding and family photographer. I just wanted to come to the meeting today and share my thoughts about the business."

"I have photographed hundreds of weddings; I've been to hundreds of ceremonies. I don't think having a ceremony outside is...I'm sure all of you have been to weddings, it's very calm, intimate. There might be some music but dance floors are always inside, which is where the majority of the sound is. I've worked with the Dunham family on multiple projects. I've used their property for family photo shoots and other things; and it's such a beautiful place. I think that, you know, working with couples; they're really looking for that picturesque view' and working with this nice family, and I think that having outdoor ceremonies are beautiful. I'm a natural light photographer so that's my ideal spot."

"I know that Allie and her whole family are very passionate about the Community and bringing in some business, and I think that that's incredible. She's very, very passionate about that, you know, the farm is very unique. It's absolutely stunning and I'm hopeful that they'll be able to utilize the space for everything that it has to offer. And that's about it."

Mike Welshko, PB Chair: "Okay, thank you Hannah. Cathy Oats please."

Mr. and Mrs. Oates are in attendance. Mr. Oates sent an email to the Planning Board. Mr. Oates states that he would like to reserve his comment time so that he may respond to something that may be said later in the discussion. Chairman Welshko states that he is unsure if we can do

that, but the board will entertain questions later. However, if he has something to say to do it now, please.

Mr. John Oates: "Okay, thank you I'll do that, and I appreciate the town Planning Board, giving us this opportunity. First of all, I'm concerned to know how many people have received a notice of this meeting?"

Mr. Mike Welshko, PB Chair: "Okay, we will answer these questions at the end."

Mr. Oates: "Okay, fair enough. As we all know, the area under consideration is designated agriculture residential and the proposed amendment is a request to further extend a previously approved exception to that designation. Certainly, the Dunham's have made significant improvements to the property since a special use permit was granted."

"To date I have no complaints about their operation of the facility, of course, the time they've been an operation has been during the pandemic, most of the events they proposed to host have been curtailed. Certainly, some specific words and the proposed amendment description and meeting minutes create images to give rise to concern. Let's not lose sight of the fact that this area is still agricultural residential and not party central. Words like: sendoff, block parties, cocktail hours, don't seem consistent with that area designation."

"The use of alcohol alone on the premises raises a host of questions, among them, will there be on premises and or cabaret licenses required? How will alcohol consumption be monitored?"

"The requested amendment discusses proposed permitted activities, does the Planning Board have authority to proscribe certain outdoor activities such as snowmobile hill climbs, tractor pulls, or motocross events? If not, the requested amendment for outdoor activities seems pretty open ended. Perhaps too open ended for approval at this time, thank you."

Mr. Mike Welshko, PB Chair: "Thank you, Mr. Oates. Susie Gustafson, please."

Ms. Susie Gustafson: "So, I've been in... my husband and I moved to Hamilton 45 years ago. We've known the Dunham family as long as we lived here. I knew Marilyn and Jim very well and, of course, watched the boys grow up and their sister."

"So, it's with great admiration of a fourth-generation family farm that I see their newest generation. Marilyn and Jim's grandchildren really picking up the slack and being able to sustain that property in the family's name. The idea that they would come up with a barn, a wedding barn is, I think, brilliant and timely it's happening all over the country, and certainly in New York State. And the fact that there has been such consideration given to them prior to this; as to how they have to establish the business, and do their business, and they've complied; from everything I've read and heard, very well."

"You know, I think part of the thing that, so really to the point, we live in the Village of Hamilton, of course, we are within the Town as well, but you know, in the Village when Colgate is in full steam and Covid excluded; there's a lot of noise here. Here on University Ave. we hear a lot of games and sports activities and we can hear everything, and you know what that's just part of living in a college town, we accept that fact and we don't fight that."

"We're very grateful to have them as neighbors, and so it is the fact that this family can hold on to a farm for four generations is admirable, to say the least. The fact that they're going to such an extent, to try to really succumb to the dictates of the neighbors and the board and then is amazing. So, seeing the economic driving force that it has a ripple effect that has on secondary businesses like Hannah's photography or caterers that come in, what flowers, people that actually are in the wedding business venue, this is an economic force that is welcome in our Community. We should be, I think grateful to have that opportunity. If there's obviously, considerations for residents and neighbors, that's fine I don't think anybody's arguing that fact. But it would be nice to see some support for startup businesses in our area. I mean, it would be nice to see this happen without a lot of non-welcome, so I certainly support their efforts and support the economic factors behind it and hope it all works in their favor."

Mike Welshko, PB Chair: Okay, thank you. Next, we have Ron Burstein and I believe he's there at the Town Office.

Mr. Burstein has decided not to speak. The next person to speak is Mary Purdy.

Ms. Mary Purdy: "Good evening. Hi, and hi to Mike and Allie, is a neighbor who I haven't seen in too many years. We own a home right down the road, I was raised on Poolville Road, I live in Albany these days, but we retain the home; and we are putting some, quite a bit of work on the property and on the home. The hope is that we retire there."

"It sounds to me like there's a discrepancy between what is being described at the public meeting and what's in the application, which I haven't seen, though I would have a concern about that transparency and I think that, in terms of trust, and being a small town group that we would be eager to help ensure that everybody has that information."

"I think the other issue is that this is a boon to the economy and it's a boon for a particular family. But it may, it may not be a boon to the neighbor who lives in this area, within eyesight, who have animals, who walk on that road, who already have the waste facility down the road, so we already have traffic. Regarding that what is it going to be like to have more traffic beyond just the weekend of a wedding. So, it sounds like at one point, this was about adding to the scope of the wedding venue for an outdoor... You know, expanding the venue and now we're talking about things that seemed a bit generalized. And I would have a concern around what that scope is; and are there any constraints on that once this permit is approved. Thank you."

Chairman Welshko thanks Ms. Purdy and states that the board, town staff, and the applicant may answer some of the questions that have been raised. He asks that The Deputy Clerk put the site plan on the screen.

Questions asked:

1. Temporary structures and site plan: The Planning Board has required a site plan for this application. Any temporary structures would be in the areas labelled "event area". There are five such areas.
2. Doors: The chairman is unsure about any double doors or airlock doors, there are double doors on the front of the barn, however it was not part of the conditions that were in the resolution. There was no "ruling in favor" of the Dunhams. Deputy Clerk explains that though many things were discussed and entered into the record at the November 2017 not all of it got included in the official resolution.
3. Ferris Wheels and rollercoasters: These items are not in the scope of this application; in order for that to happen, there would have to be another application.
4. Email: Mr. Oates asks if the board received his email. This will be checked by the Deputy Clerk, many letters came in today.
5. Neighbor Notices: There were 16 neighbor notices were sent on April 1, 2021. As per our Zoning Law all properties within in 500 feet of the site plan area were notified by mail. This application has been advertised on the agenda for the Planning board in January, February, March, and April in the newspaper, posted at our office, as well as on our website.
6. Alcohol use: The Town Attorney answers that question stating that usually that is something that is done through a vendor, like a caterer, who has a license, unless the board has imposed any restrictions. It is something that would be regulated by the owners for their own liability. In the past the board has restricted where alcohol can be and that is certainly something that the board will continue to keep in consideration.
7. Unrestricted use: This is not an open-ended application, the outdoor use would be limited to the areas labeled "event area" and would be subject to any conditions placed on them, which we will get into later.

Chairman Welshko asks the Dunham's if they would like to respond to the issues that have been raised.

Mr. Mike Dunham chooses to address these issues. He thanks the board for answering some of the public's questions.

Mr. Mike Duham: "I wanted to reiterate that, based on the topo (topography) that you see on the site plan, that you really cannot see the ceremony lawn we're proposing from any of our neighbors and that's why we chose that."

"We did conduct two sound studies, and we required to do two sound studies there was a very in-depth study into that. Then there have been sound checks at every event since, including by the Codes Officer, and we have not had any indications of any issues."



"We have made a, with the approval that we received; we made a very significant investment into this facility and we followed every rule, and every requirement; including the installation of a sprinkler system over \$40,000. And I know that I've not seen one wedding barn elsewhere in New York, that has sprinklers."

"So, we've been very cooperative. We've followed every step of the way, we've been very careful to follow what we were set out to do. And we've done all that. I also don't recall any conversations about double doors."

"Property values seem to be holding steady and I think that the improvement, and the reassessment that we've had on our property certainly indicates property values increasing."

Mr. Dunham mentions another facility that had an application pending at the same time their original permit was issued. This application was never approved because the applicant chose not to proceed.

"I feel we're doing it right, I feel we're doing what we need to for this community and to speak to the alcohol and the insurance. Yes, we rely on the caterer for the license AND every contract for every wedding requires wedding insurance that also includes; I believe, alcohol insurance. Allie can correct me, but I'm thankful for the board; I'm thankful for every all your advisement and for working with us through this.

"We are not trying to create an amusement park or anything. We're trying to expand the opportunity to not lose weddings to other venues and other towns; because we can offer the beautiful outdoor ceremony, or the carriage rides, or the wagons and some people do like to have a little cocktail party in the beauty of nature. So, we, we are grateful, and we appreciate everybody's feedback and input and I'll leave it at that."

Chairman Welshko speaks to an observation that he has made about the ceremony lawn. He notes that the assertion that the lawn cannot be seen from the neighbor across the street, is not quite accurate according to the contour map. He also states that the board has not had a very clear picture of the types of outdoor activities, or the extent, or scope of said activities. He asks if someone from the Dunham's wished to speak to that.

Ms. Allie Dunham: "I will touch on some things. First of all, I'd like to mention, I really do thank everyone for coming and speaking. We do hear everyone's concerns, and that is always in the back of our minds as we're moving forward. We would never want to make anybody uncomfortable or make them think we weren't doing the right thing. So, we're very, very community oriented, as Hannah was saying. I have developed, such a passion for trying to bring more business to this town. So, everything that we do is, we keep our community in mind through everything so..."

"I do enjoy actually hearing people's concerns and feedback because I want everyone to understand, whatever your brain is telling you is worst case scenario it's not what we're doing. We are in the business of weddings our website is "Heritage Wedding Barn", that is our main business. It's an event venue because we are not limiting ourselves, but 95% of our events will be weddings, and so the outdoor events or the outdoor portions of an event would be relating to a wedding. So, a lot of people want to be unique and creative with their weddings these days, and they may want to have a food truck or they might want to have an ice cream stand. You know, I asked, I get questions about cornhole."

"People want to get outside and have cocktail hour, they really love the farm setting and being outside. So, that's kind of the main request that we've been getting."

"That being said, we are just not limiting ourselves because there may be an event of a similar nature, like a graduation party, or we want to host community events; again, to serve our Community and help the local businesses. So, maybe we have a craft show in the barn with some food trucks outside so people can walk out there and get food."

"Our main business is going to take place inside the barn and any loud music or DJ or band will still take place inside the barn. But we just want the option to have people get some fresh air and again COVID brought this on."

"The main reason why we are considering this because, you know, even New York State admits that you can have more people at a gathering, as long as it's taking place outside because it's safer. So, we want to be able to get people outside, they can spread out. And they can go, you know, they can be outside or inside, at the same time, so it's less gathering so we're just trying to kind of play, towards a lot of what people are asking for and make our business stronger, and more attractive, but also, you know that health and safety that came with COVID that we don't know how long it's going to take place."

"I just hope everyone understands we're not doing these crazy things that, you know, no Ferris wheels, no rallies like that's not our intent here. Our intent is to keep it along the lines of weddings and similar events and similar features of those events."

Chairman Welshko would like to give the public a chance to ask questions. He reminds the public that this is not an opportunity to rehash what has already been discussed. The Board understands the public's concerns and they have been noted. This is an opportunity to ask about a concern that has not been addressed yet. The order of participants will be the same as earlier.

Mr. Vincent Rossi speaks to the site plan, the sound study, and the types of events that may be held at the venue. He is reminded to ask his question.

Mr. Vincent Rossi: "Are you treating this as a site plan review or not?"

Chairman Welshko explains that many of the issues that he brought up were more concerning the conditions of the permit. The board does not expect the applicant to show where each and every picnic table will be or every other structure, they will be limited to the areas labelled as event areas.

Mr. Jeff Clarke has no questions.

Mr. Steven Skollar: "You're using COVID as an excuse to have it outside, again. In 2017, you said that you wouldn't be doing any events outside, that would affect the neighbors, and yet you had a wedding during COVID this last August. Which was illegal as far as the state goes because, so you know... I don't understand. I think it's disingenuous to use it now."

"My other question is, so you're telling me about the doors, you were trying to reassure the neighbors about sound, and you said, people wouldn't be out front, but yet... So that was just, that wasn't real? What was that... what did I hear? What did Ronnie hear, you know."

"I like to hear the testimonials from all these people, but nobody lives across the street from it, like the few neighbors that do. So, my question is um; I didn't know it seems disingenuous to me. One more quick question if you don't mind. Or why can't you soundproof the barn? I'm a musician I work in studio and it can be done very easily."

Mr. Mike Dunham: "Yeah, I would answer to the question of soundproofing. There were several suggestions in the sound study of which we did. We covered up all of the vents that were allowing sound to go out at the barn. We could not really insulate it and keep the character of the barn."

"And with regards; and we have been monitoring the sound levels and they all have been within the requirements of the sound studies that we conducted. So, we've been very careful, we've taken sound readings in front of every single neighbor's house. We've never been over and, as far as the COVID, wedding that was not an illegal wedding because it was less than 50 people and it complied with all of the requirements at that time."

"And I'm not using COVID, we're not using COVID as a reason for this. Where we are setting some parameters to further clarify the language in the approval of the Special Use Permit that was granted; or clarifying because it's very vague in it, it could allow for a lot of things and we are trying to further define that."

"You know a few people standing up on the Wharfin, the band wasn't playing, the music wasn't going, they were standing out there. I don't even know that was a violation, and there's nothing that says the doors and must be closed. So, we're trying very hard to comply; and we've tested the sound in front of your house, in front of the Smiths, in front of all the neighbor's houses, and it's never exceeded. So, it can hardly even be heard so where we are sensitive, we really appreciate, you know your concerns, but we're hoping that we are addressing them."

Ms. Hannah Frederick: "No, I don't have any other concerns, I just want to point out that anything that's happening outside isn't going to be loud like, never have I ever been to a wedding where they've had speakers and amps outside for the ceremony. Usually, it's a very, very small, like musical song that gets played. It's very romantic. And lawn games, I mean, people play lawn games outside all the time."

"I don't live across from the venue but, I think that all of the positives that are going to be coming to our Community for this; like we're young entrepreneurs trying to make a living here. I just think that it's a very positive thing, and that's all I have to say."

Mr. John Oates: "I have one question. It says in the narrative the cocktail hour; could this become a weekly party venue for fraternities and sororities? Who I'm not against either, but something to think about it. Thank you."

Ms. Allie Dunham responds: "We actually had a fraternity approached us about having a formal and they didn't like that we had sound restrictions and they didn't like that we ended at a certain time. And; so they didn't want to go with us because they wanted to party into the night, so we told them we had strict hours and they didn't want that, so they went with another venue. Typically, those rowdy parties; they're going to go with another venue if they are wanting to party into the night, so we are very strict with who we allow to have events in our barn."

"We also have staff on premises during the entire event to monitor it, and we do have the right to deny people the consumption of alcohol or entry into the barn. So, we are monitoring everything and it's all, I mean it's all very official, we're not just letting people wreak havoc in our barn."

Chairman Welshko asks if there will be a staff person at every event that would be policing.

Ms. Allie Dunham: "Yeah, one of our family members is there at every single event. I've been to every event and I've been there, the duration of the entire event. While any non-family member is on the premises, I am there. It may not be that way always, but we will always have a staff member, it may not just be me. So, we will never just leave the property for someone else to take on, we are always there."

"Yeah, we're always there monitoring it, we have our sound meter which was given to us by the man who conducted the sound study that was accepted into the resolution. He gave us a professional sound meter. So, we are there, monitoring the music throughout the entire evening and we are, we are walking around the property constantly making sure, everything is as it should be."

Chairman Welshko thanks Mr. Oates and Ms. Allie Dunham. He asks Susie Gustafson if she has a question.

Susie Gustafson: "So, I think probably to summarize, the idea that the name of the barn and the whole venue is Heritage Barn and that this fourth generation of family has taken it to this level."

"I got a tour of the barn this winter and it's absolutely beautiful and the things that they have done; is really a work of love and pride in their family history. And I think these kids do everything in their power to protect that, and keep it safe, and prosper that piece of property in a way that is...

Chairman Welshko thanks her and asks Mary Purdy if she wishes to speak.

Ms. Mary Purdy: "I just have one question, what is the parent capacity and are you anticipating an increase under this application.

Mr. Mike Welshko, PB Chair: The capacity, I believe, is 300 in the existing special use permit and that would include staff and vendors and there as far as the materials that were given to the board there's no increase in that number. I don't know if the Dunham's want to comment on that.

Ms. Allie Dunham: I'll just, I mean that's correct 300 is our capacity for inside and because our events will be both indoor and or outdoor the capacity will not change. We also have yet to reach anybody who is going to be near 300, all the numbers that we've had or have planned are under 200.

Chairman Welshko asks the board if they wish to have discussion. First, the board will move out of the Public Hearing portion of the meeting.

Vicki and Harris Griffin speak up and ask their question.

Vicki Griffin: "I guess, just we were wondering like how... I didn't really hear anything like how often events are planned; every week or just an idea of what, you know, what you're expecting maybe?"

Ms. Allie Dunham: "We don't have any set number, except for no more than one event per day, as of right now. As far as how weddings go, that's all our capacity is and typically; Like I said, I can't predict how many events will take place in a week but as of right now, it's typically one per weekend."

Vicki Griffin: And then the other thing I was wondering if it is possible that maybe the neighbors could come see it sometime to see you know, since we do live up like we live right kitty corner, you know just so we could get an idea, just as a neighborly thing.

Ms. Allie Dunham: “We actually, we want to include the Community in this venue. This isn't just for strangers, I mean, that's why we want to do this, too, is, we want to be able to support other businesses where community members can come and participate and enjoy the barn. So, that it's you know it's fun for everybody, so absolutely.

The Griffins thank her.

Chairman Welshko directs the board back to the motion to close the Public Hearing.

**Resolution 2021-28: Motion to close the Public Hearing regarding AMD holdings application for a Special Use Permit Amendment.**

Motion: Bettyann Miller

Second: Travis Dubois

Vote: YES – 5                      NO - 0

ADOPTED

The Deputy Clerk brings the Site Plan map up on the screen for the Site Plan review. Chairman Welshko asks if there have been any changes since the last time.

The board has some concerns about the event area located on the south side of the 48-space parking lot. Their main concern is that this is a two-way traffic area and may pose a safety hazard. They prefer to utilize that as either an event area or as a parking area.

The applicant placed that area there for smaller parties and because is very picturesque.

However, the applicant agrees to eliminate that as an event area and maintain it as parking only. There is some discussion about how to label the event areas on the site plan. The board will use descriptions such as North, South of ...

Board member Galvez wishes to address some of the issues that were raised in the chat such as if there are event areas in front of the barn and what types of things will be held there, especially the one in front of the barn.

That area will be mainly for pictures, they did not want to be in violation, for safety reasons people will not be encouraged to linger there. That is why most spaces for outdoor events are behind the barn.

Chairman Welshko: “I think that that would more accurately described and that would assuage some of the concerns that people would have that there would be 100 people out there, doing whatever. That would differentiate it from the event areas because I anticipate there will be conditions that apply to the event areas and they're not going to differentiate between that.” The event area right in front of the barn will be labelled as a photo area.

There is some discussion about putting in some screening at the ceremony lawn; whether the screening that is there is enough, and possibly adding more.

Mr. Mike Dunham: “Yeah, I would never be opposed to planting some trees, there are three trees there outside of the box that are evergreens that we did plant.”

There is more discussion of screening, and the location where it is needed. There are some concerns with noise and visuals for the neighbor across the street, planting more trees may help with this.

Mr. Mike Dunham: "So, if trees help us control that, great, otherwise we just we turn the music down or the whatever it's not going to be a band or anything out there it's going to be just ceremony music."

Town Attorney Nadine Bell states that trees and foliage are often used as buffers for planners to help mitigate noise and visuals. Considering that these two things are of the most concern, they are good ways to mitigate the facility as a whole. She also cautions the board to be specific with their conditions. We wouldn't want the applicant to plant trees thinking that they have met the conditions, and then come to find that the board is not pleased with the type or height of the trees. There needs to be clarity for the applicant.

Mr. Mike Dunham again invites the board to come and see the property. He is concerned with losing the view from the ceremony lawn. He would love to find a happy medium.

There is more discussion as to the placement of any new trees. The site plan should show number type and height. The applicant has had to do some screening before on the other side of the property. Mr. Dunham would like to have the CEO come out and make an educated decision so that they can be effective. The applicant wants to make sure that what they do has a positive effect. They have done some outdoor sound testing and they say that the sound was in compliance. If they do not have to destroy the view than they prefer not to.

Town Clerk, Sue Reymers asks the Chairman if he would like to view the site through Pictometry to get a more accurate view of what the land looks like. There is conversation about how the neighbor's house sits across the street at a similar elevation. There is some disagreement about the elevation, with regards to the neighbor's house.

Chairman Welsko still feels that more foliage will help with the aesthetics, that there is plenty of room for more conifer trees in a staggered row. He is suggesting they be planted along where the existing conifers. That should be stated on the site plan. A description or a note on the site plan saying a row a buffer of conifer trees will be established of eight foot tall on eight foot centers.

Ms. Nadine Bell suggests that they show it on the site plan and a note can be added stating that the landscaping depicted shall be maintained.

Mr. Dunham asks if the site plan can be changed by them or not. The answer is no, the changes need to be official.

CEO Miller reminds the board of how the trees on the other side of the property are spaced. They are 30 feet on center and are in a staggered two rows.

The applicants ask if the board can make the site plan changes into a condition that could be done later, to speed up the process. They would like to get his all settled before wedding season begins. They have some weddings planned and they really need the outdoor use. Chairman Welshko states that he is no comfortable approving the application without a new site plan. He asks the attorney for her advice. She says that if it is something that this board has not done in the past, then they should not. The board should not deviate from their usual process.

Board member Travis Dubois has a few questions/comments. His first comment is about the website stating that they can accommodate 300 guests. This seems misleading, because according to the 2017 permit they are allowed to have a total of 300 people including staff and vendors, not 300 guests. Mr. Dubois also addresses that the website states that there are multiple sites for a ceremony. He is under the assumption that the ceremony space will be on the lawn near the area near the trees that were discussed earlier.

The applicant explains that not all the weddings are large and that they may have smaller weddings behind the barn or the farmhouse They tell their clients that they are in the process of getting approvals, so it may be an option.

Mr. Travis Dubois mentions again on the website that it is stated that there are 200 acres of the property to take pictures. He wonders if this is consistent with the site plan.

Mr. Mike Dunham states that couples get their pictures taken all over the place, including in town and it never seems to be a problem. They cannot monitor everywhere the couple want to have pictures. He acknowledges that they need to tweek their website.

Ms. Allie Dunham discusses the reasons why the site reads the way it does. She will also make some corrections to the website.

Mr. Welshko agrees that it seems as if they are advertising 200 acres of land to do what you please. It makes it a little fuzzy as to interpret.

Ms. Allie Dunham: "We don't allow anyone outside of the area of the venue and it's in our contract that it would be escorted, so it's not just random people walking around the whole property, but I'll tighten up the language in that, just so that it's clear."

Mr. Travis Dubois states that he doesn't want to be a pest but, the more precise and the more clarity is important for all parties.

Ms. Allie Dunham: "Yeah, we also like, there's a lot of liability that we take on, right, like with all this stuff, so we try to, it's... A lot of things are tightened up in our contract if that makes sense.



Like very strict areas of where they're allowed to be where they're not allowed to be. I mean we are very clear with them when they book with us."

"I will make sure that everything in the website aligns with our contract, but we're more cautious than you are when it comes to our property we don't want people to run randomly roaming around."

Lastly, Mr. Dubois discusses sound, since it seems to be the biggest issue. He appreciates the fact that the Dunham's have a sound meter and that they are trying to be proactive. His main concern... is that does the town have the ability to take sound measurements, and how they are be enforced.

Mr. Mike Dunham explains that the CEO has been out there while they are having an event and has taken sound measurements.

It is not reasonable to expect the CEO to go out there for every event, however, if there are complaints, he can go and check out up-coming events and take his own readings. CEO, Mark Miller confirms that he has been out there to take readings during an event and that all the readings were well under the limit. There is discussion about who to call if the neighbors have a complaint. CEOs are generally not on call, but he is willing to pop in on certain events. All complaints will be dealt with the next business day.

Town Attorney Nadine Bell offers some clarification.

"I would submit to you it's no different than when a town tries to enforce many of its code provisions, such as a dog running at large, a dog barking, things like that. Typically, if you have a town that has a prohibition with a dog barking. By the time somebody picks up and calls the dog control officer and they arrived, the dog may have already stopped. In which case you, it's a matter, it is a matter of enforcement, but it's a matter of documentation of what took place.

"So, whether it's a recording of what the sound was like, whether it's testimony, a lot of times when you have, and I'm using the dog barking because it's a somewhat similar noise kind of a complaint. Typically, if you're going to prosecute that and in town court, it requires somebody to be a witness, and that's how you get to the level of burden or excuse me, the burden and your level of proof. So no, our Code Officer is not going to be able to show up on Saturday night at 10 o'clock to make sure that the sound is where it's supposed to be, but to Mark's point if there's a continued issue that can be addressed. If there are problems that it, whereas continual; having some kind of a recording or something. To demonstrate or, to be able to provide to the Code Officer after the fact, would be appropriate."

Chairman Welshko asks the Deputy Clerk to put parts 2 and 3 of the SEQRA form on the screen. The Board starts to review these two forms. Ms. Bell offers some counsel.

Ms. Nadine Bell: "So, a couple comments on this, remember this is an amended site plan and amended special use permit application. The board would have gone through the environmental assessment form with the original application. It is still very much appropriate to

do it now. I'm not suggesting you don't do the environment, the review of the environmental assessment form this evening, but if the board previously had made a determination that there was a negative declaration. What I would recommend, that the focus be on this evening for the environmental review is the differences in the application."

"So, for example, if 300 occupancy was in the prior application and 300 occupancy is in the current... the traffic is not likely to be significantly different, under the current amended proposal. So, some of these items are not likely to have any change. Just keep that in mind as you're going through this, that we aren't looking at this application for the first time that it's an amendment."

"So, the issues that you have before you this evening and the changes are in large part, what the environmental review will focus on. Does that make sense to everyone on the board?"

"Just with regard to number one remember what we have before us tonight is an application for a special use permit and a site plan and it's an amendment and something that I think is important because this is not something that people are necessarily familiar with."

"There is case law that when you have a special use permit; when a use is permitted by means of a special use permit that is tantamount to the Town board making a legislative finding that the use is permissible; or is appropriate for a particular zoning area. So, that's just to kind of confirm number one and the no to small because it's not like a huge variance where it's something beyond what was contemplated. Instead, with special use permits the way that case law looks at it, is the town board has said, these uses are acceptable in these zoning districts, subject to regulations. So, just something to keep in mind, and for those in attendance."

The Board reviews the parts 2 and 3 of the SEQRA short form.

Chairman Welshko states that the board has not found any large to moderate impacts. The second box will be checked, with the Town of Hamilton Planning Board being listed as the lead agency. He will come to the Town Office to sign at a later date.

Mr. Welshko brings up some of the challenges of this application for the board to discuss; as well as some of the concerns of the neighbors. The most prominent one being sound.

The board still has some concerns about the development of the conditions, particularly surrounding sound. The sound still seems to be an issue with some neighbors, and that concern is greater now because it will not be limited to the indoors. The board would like to explore this further. Another concern is the lack of specificity of the outdoor activities.

Chairman Welshko: "I'd like to defer a vote of approval on this, to give us some time, to give the board some time. We just got these letters, yesterday, we just heard the comments tonight, there's a lot to consider."

There is discussion among board members about the draft conditions, and if they adequately cover the outdoor activities, as well as the sound.

Mr. Heitz attorney for the applicant has some comments: "Yes, I had the pleasure of being a part of the approval process before, when we did do an in-depth study and the board did make the finding of a reasonable sound level."

"Irrespective of how the sound gets to the side of the road, whether it comes from inside the barn or comes from outside. They've complied with that."

"And I have a bit of hesitation, if you may indulge me for a second; of reopening this door, about whether or not the sound standards that we have already set, and complied, with should, or even need, to be adjusted. And I just wanted to respectfully make that comment for the record, and to use just as a matter of thought, that it really doesn't matter if we're making sound outside or making sound inside the standard was set and we're meeting that standard."

"And I do have a concern about kind of going down a road that when we went to great lengths and great expense to get that standard approved by this board. Over a period of well over a year."

The board and the applicant discuss the sound at length touching on topics such as the barn doors, the concerns of the neighbors and where they live, other residences that are known for loud music, and a local children's camp that also makes noise. Another application that was ultimately pulled, in Poolville was brought up again.

Mr. Dunham makes an impassioned plea about the sound testing that was done for the existing permit. He asserts that they have spent a great deal of money, he doesn't understand why this is being reopened again. They are trying to set parameters to make this permit more clear.

Mr. Mike Dunham: "We spent thousands of dollars, for we want to comply with that we, I don't understand why we are reopening all these issues. You guys wanted us to clarify, and set parameters, we had a meeting.

We went through the meeting we put this all out, we discussed it, we looked at it, we talked about it, we presented it as you directed us to. And now we're going back and because we knew what was going to happen."

"I definitely appreciate the board having to be specific, because it's kind of microscopic that we have to cover all these bases because there's a couple complaints, okay. But we are trying to address those and you know we're kind of in a pickle here, so I don't want to withdraw this application. And I don't want to go back to the language, and I don't want to ask a judge to declare what the language that was already approved really means, and what we are allowed to do under that language, we are trying to accommodate the code enforcement officer by setting parameters to allow us to let this venue be what it needs to be. So, I don't understand why the sound...It's false we've been there, we've took readings, Marks been there, he took readings."

Mr. Dunham continues about the fact that they had to put windows in for code and that they are double paned windows. He feels that they have done all the soundproofing that they will do. Mr. Dunham feels that the neighbors are impeding on their ability to do business and that some of the complaints are unwarranted. He is concerned that neighbors that are too far away are claiming to be impacted when they are not.

Board member Mary Galvez asserts that she doesn't feel that the board needs to be so restrictive, if they have been complying with the sound limits. Noise is a very subjective thing and that what is loud for one person may not bother another.

Ms. Mary Galvez: "You know, whereas Mark has been out there, he's measured the noise levels, and the Dunham's have that... you know we're taking their word for it. But I think without concrete evidence of the noise impacting the neighbors it's kind of hard to really know what's what."

Mr. Bill Heitz, Attorney for the applicant wishes to speak: "Mr. Chairman, I want to just make one point that I think is important for context. Is when we had the opportunity to speak with you, Sir, and with your attorney and we discussed about how to proceed forward with a special use permit our topic of discussion was setting parameters for the new use, outside, very specifically. We were told, don't say exactly what you want to do, so much because you limit yourself state the parameters, by which you're going to operate this outdoor use."

"And as long as you comply with those uses and with the with the parameters set forth to the uses, that's what we're really going to focus on, and so far, there really has been no change the circumstances whatsoever, toward revisiting already approved standards and parameters, they were widely accepted by the Town Board or by the Planning Board."

"Now, we have a neighbor who historically has been unreasonable with complaints, and the Board has to take that, in consideration. I'm not sure of the total population of Hamilton. But we're talking about 1,2,3, or four people out of over 3000 that are piping up. And you have to put into context the reasonableness of these letters you're getting from a lawyer who frankly, I've never heard of, and I'm not sure is even familiar with the facts and the site plan. Maybe he is, maybe he isn't and I don't mean any disrespect. But it's my understanding, that Ms. Zahn lives a mile away. So, when she's complaining about sound in the DEC level above ambient sound, something that board didn't worry about before. I just asked that the Court, not the Court, but the board take that into consideration."

"As you decide how much weight you give these comments. Consider them, of course, but consider them in context of how you're getting them. If you look at the chat that it was a stream of this zoom call. And you look at some of the defamatory untruthful, nasty things that were said about my clients in this public chat. You will see what I mean is that you can hear it. Okay, but, but I just asked you to step back a little bit, and say how reasonable is what I'm hearing? How much weight, should I give these comments, or do you have to step back and say whatever I do, I have to do from a reasonable standard. We all know, the guidelines. you can't

be arbitrary and you can't be capricious and as soon as we stop out we step out of the reasonable zone. That's how we get there, so and I'm just, I've sat very quietly through the whole meeting absorbed everybody's comments I absorbed my clients getting berated with those comments and was quiet.

And I'm just asking you to please take into consideration the context in which you're getting these comments."

Mr. Bill Heitz: "And whether or not there's a real need to open everything up again, or if that's noise, and you have to respond in a reasonable way and require us to comply with already set standards. And I very much appreciate the opportunity to say my thoughts and I'm I am going to sit back again and just be quiet, but I did want to express that. I thank you for the opportunity.

It is noted by the Town Attorney Nadine Bell that the board is not ready to make a decision tonight that they need to see the revised site plan, considering that the Special Use Permit and the site plan go hand in hand. The public hearing has been closed. The board has received and noted comments both in favor and against the application. All written comments have been acknowledged and have been entered as part of the record. She reflects that the board has done the environmental review. However, the board still needs to see the amended site plan. The prudent thing for the board to do at this time is to table this application until the site plan can be reviewed and the board can explore more and learn more about the sound issue. The board will then have time to draft conditions that are appropriate for the next board meetings. Then everyone will be in a position to move forward.

Board member Bettyann Miller relates that there is a garage band somewhere in East Hamilton that is far more disruptive that the Dunham's barn has been.

The major source of concern is the bass sounds coming from the barn. The chairman feels that he needs to investigate more, the board agrees. They want to be able to discuss all the materials and formulate conditions and vote at the next meeting. A draft resolution and conditions will be circulated so the board knows exactly what they are voting on. Everyone should be comfortable with the process.

**Resolution 2021-29: Motion to table this application until an amended site plan is received.**

Motion: Bettyann Miller

Second: Mary Galvez

Vote: YES – 5                      NO - 0

ADOPTED

Deputy Clerk Reviews the dates regarding the next meeting.

April 29, 2021 is the cut off date

May 11 is the next meeting date

The Deputy Clerk asks Allie Dunham if she would like to be sent the letters, they are part of the public record. Ms. Dunham says yes. The applicant's attorney then reminds everyone that the correspondence that has been sent to the board are hearsay that they are not evidence of any kind, and cannot be entered as fact.

Mr. Mike Dunham asks if the period in which people can send in correspondence is over. The Deputy Clerk says that the correspondence will be accepted until the day before the next meeting. She explains that the public hearing is over, but people can still send letters.

The Town Attorney explains it very well for the applicant. The letters are acknowledged, put in a file and are part of the record for the town.

Chairman Welshko asks the board members to please read the Dunham Sound Study as well as the DEC recommendations in preparation for the next meeting.

**Resolution 2021-30: Motion to adopt the minutes from February 9, 2021.**

Motion: Bettyann Miller

Second: Elaine Hughes

Vote: YES – 5                      NO - 0

ADOPTED

**Resolution 2021-31: Motion to adopt the minutes from March 9, 2021 and March 31, 2021.**

Motion: Travis Dubois

Second: Bettyann Miller

Vote: YES – 5                      NO - 0

ADOPTED

Chairman Welshko asks if the board has any more discussion or questions.

**Resolution 2021-32: Motion to adjourn at 9:30**

Motion: Mary Galvez

Second: Travis Dubois

Vote: YES – 5                      NO - 0

ADOPTED

Respectfully Submitted by:  
Elisa E Robertson  
Deputy Clerk