



## TOWN OF GREAT BARRINGTON MASSACHUSETTS

### BOARD OF HEALTH MEETING MINUTES TOWN HALL 334 MAIN STREET- GREAT BARRINGTON, MA 01230 THURSDAY, OCTOBER 3, 2019 AT 6:30PM

#### **PRESENT:**

Chair, Michael Lanoue  
Dr. Ruby Chang  
Vice Chair, Peter Stanton

Health Agent, Rebecca Jurczyk  
Health Inspector, Locke Larkin

#### A. **CALL TO ORDER**

Chair, Michael Lanoue called the meeting to order at 6:35

#### B. **APPROVAL OF MINUTES**

- August 8, 2019  
MOTION: Peter Stanton motioned to approve the August, 8 meeting minutes.  
SECOND: Dr. Chang  
VOTE: 3-0
- September 5, 2019  
MOTION: Peter Stanton motioned to approve the September 5th meeting minutes.  
SECOND: Dr. Chang  
VOTE: 3-0

#### C. **SPECIAL PERMIT REVIEW:**

- **SP# 898-19:** Special Permit application from Green Houses Partners, LLC 70 Rowe Road, Great Barrington, to install an in-ground swimming pool at 27 Humphrey Street, Great Barrington, in accordance with Sections 3.1.4 G(12) and 10.4 of the Great Barrington Zoning Bylaw.

Mr. Houston said that the development contains five units. The salt water, lap pool will be for the specific use of the residents of those five housing units. The Board requested that the applicant file for all necessary semi public pool construction and operation permits in accordance with 105 CMR 435.000

MOTION: Peter Stanton motioned to pass onto to the Planning Board  
SECOND: Dr. Chang  
VOTE: 3-0

- **SP# 889-19:** Special Permit application from Robert W. Brownson, 495 Home Road, Sheffield, for a special permit to extend a pre-existing nonconforming use, to allow a Solid Waste Hauler Operation at 57 Van Deusenville Road, Great Barrington. This application is filed per Sections 5.2 and 10.4 of the Great Barrington Zoning Bylaw. (Discussion/ Vote)

Michelle Loubert, 70 Division Street. Ms. Loubair said she is concerned with the volume of trucks driving up and down Division Street, a residential district but she intends to bring her concerns to the Zoning Board of Appeals. Ms. Loubert said she does not have any health concerns related to this application.

MOTION: Peter Stanton motioned to pass the special permit application on to the Zoning Board of Appeals without a position or negative recommendation.

SECOND: Dr. Chang

VOTE: 3-0

- **SP# 900-19:** An application of appeal of the Building Inspector's Cease and Desist order, filed by Duncan Stafford, 200 Maple Avenue, Great Barrington, in accordance with MGL 40A, sections 8 and 15.

The Board of Health determined that the application was not jurisdictional under their prevue.

MOTION: Peter Stanton motioned to pass the special permit application on to the Selectboard without a position or negative recommendation.

SECOND: Dr. Chang

VOTE: 3-0

- **SP# 901-19:** Special Permit application from Jenise and Mark Lucey, to alter a non-conforming residential structure at 415 Monterey Road, Great Barrington, in accordance with Sections 5.3 and 10.4 of the Zoning Bylaw.

The Health Agent explained the layout of the two septic systems that service the main and accessory dwelling units on this parcel. One bedroom of the main residence is serviced by an older septic system that discharges into a dry well. The main residence is also serviced by a newer system that discharges into a title v compliant soil absorption system. The property owners wish to add a bedroom onto the main residence, totaling four bedrooms. The Health Agent suggested that the Board place a condition on this special permit such as; the applicant may not increase the daily seepage flow to the system containing the dry well, and that should either of the two systems fail the main residence will tie into the third and newest septic system currently servicing the accessory dwelling unit. The Health Agent informed the Board about a non compliant well location. Ms. Jurczyk said the location of the well is within the 100ft required set back from the leach field. This variance was approved during the permitting process of that septic system. However, now that the daily septage flow will be increasing, the Health Agent recommends a well water sample taken prior to issuing a certificate of occupancy.

MOTION: Peter Stanton motioned to approve the special permit with the following conditions; the east facing septic system will not exceed the current daily flow of 110 gpd, the west facing septic system will not exceed a capacity of 330 gpd, and the homeowners will supply the Board of Health with a clear well water sample prior to obtaining a certificate of occupancy from the Building Department.

SECOND: Dr. Chang

VOTE: 3-0

- **CONTINUATION** from the September 5, 2019 Board of Health Meeting:  
**SP# 895-19:** Application from Fulcrum Enterprises, LLC for a marijuana cultivation and marijuana manufacturing establishment in an Industrial Zone, at 22 Van Deusenville Road, Great Barrington, in accordance with Sections 3.1.4 C (13), 7.18 and 10.4 of the Great Barrington Zoning Bylaw.

Chair, Michael Lanoue opened the continuation of the special permit application by asking for any representative from Fulcrum to speak, none were in attendance. Mr. Lanoue said they ended the last BOH meeting with a number of concerns related to the cultivation facility proposed for 22 VanDeusenville road, chief among them noise and odor, but also worker safety and environmental impacts. Mr. Lanoue said that in his opinion, the biggest concern is odor, and this is also where the Board of Health can have the most influence in enforcement.

Sharon Gregory, 32 Hollenbeck Road. Ms. Gregory asked if the Board of Health can verify if Houstatonic Water Works can accommodate Fulcrum's projected amount of annual water use. Mr. Lanoue said that the regulatory agency for a privately owned water company is the Department of Environmental Protection. Ms. Gregory suggested that HWW show water exports from the top three worst draught years and measure that against Fulcrum's intended water consumption. Ms. Gregory said that her concerns are with the quantity of water consumed and quality of the water discharged back into the ground water.

Mitch Greenwald attorney representing the Louberts and Forbes. Mr. Greenwald said that the Board of Health has a large responsibility to weigh in on the mentioned concerns. Mr. Greenwald continued to say that there could be a variety of issues that come up down the road and it is simply not a good exercise of stewardship to wait until problems arise. Mr. Greenwald said you may not have the power to regulate all of the raised health concerns but the Board of Health certainly has the power to state an opinion. Atty Greenwald requested that the Board of Health hold their own special permit hearing, independent of the Selectboard's public hearing to make a determination about the likelihood of a marijuana cultivation facility creating a public nuisance.

Chair, Mr. Lanoue said that the Board of Health, just this afternoon received feedback from the Town's Counsel. The recommendation from counsel said that Chapter 111 (the public health nuisance code) preempts the more recent 935 CMR 500 and 935 CMR 500 leaves the approving authority with the Selectboard. Mr Lanoue said it was the opinion of Town Counsel to refer to the more recent of the laws and there are documented court cases of such that. Atty Greenwald asked the Board to make a recommendation to the Selectboard specifically outlining each of the related health concerns.

Doug Stevenson, 351 North Plain Road. Mr. Stevenson said that Fulcrum is proposing an odor mitigation agent that is unknown. Mr. Stevenson said this agent is a 'proprietary blend' and jargon is used in the report to provide comfort without facts. Mr. Stevenson said we should all be very skeptical about this proprietary blend odor mitigator.

Michelle Loubert, 70 Division Street. Ms. Loubert said that we need to consider the demographic of children that reside in that neighborhood. Ms. Loubert said that children need a good night sleep, healthy air to breathe, water, and good food to eat. Ms. Loubert quoted information from the Centers for Disease Control stating 'children need an adequate night sleep for over all well being. Children need a healthy amount of sleep at night to improve focus and concentration.' Ms. Loubert said that placing this type of facility with the aforementioned noise concerns in this neighborhood would be a determinant to the health of the children that resident there.

Trevor Forbes, 325 North Plain Road. Mr. Forbes said that in Bend, Oregon all marijuana growing facilities are required to be on a 20 acre property and placed as far back on the property as space allows. Mr. Forbes said Fulcrum Enterprise should be operating in a completely industrial zone and this type of growing facility should absolutely not be in a residential district.

Rachel Kelly, 213 Oak Street, Housatonic. Ms. Kelly said the growing facilities in Sheffield, MA definitely have a strong odor and the radius of the odor is quite large. Ms. Kelly said she is concerned about asthma and headaches induced by the strong odor. Ms. Kelly said she has young children and she can't image living next to a growing facility because of the nuisance odor produced.

Karin Passamore, 317 North Plain Road. Ms. Passamore said she is concerned with mold spores released into the environment. Ms. Passamore said the greenhouses are maintained at a high humidity and the industrial fans are likely to release mold and mildew into the neighborhood. Ms. Passamore said there are too many unanswered questions in regards to this facility and that we should tap the breaks. Ms. Passamore said this facility is going to stink and we do not want it in our village.

Sarah, 216 VanDeusenville Road. Sarah said she is concerned with Fulcrum expanding beyond this proposed use once the facility is established.

Mr. Lanoue said that after hearing many concerns from a number of residents he would like to pass on a negative recommendation of this special permit to the Selectboard. Mr. Lanoue said he is unconvinced that the proposed odor mitigation plan will effectively reduce the odor produced during harvest season. Mr. Lanoue said from what he has read and gathered there is not enough information to determine that the raised concerns will not in fact become health concerns down the line. Mr. Lanoue said that he would suggest to his fellow Board members that they pass on a negative recommendation to the Selectboard based on the water usage and availability concerns, environmental impacts of the odor neutralizer, and just the general lack of information provided. Mr. Lanoue said that he does not think there is enough sound information about this facility to pass on a positive or neutral recommendation.

Peter Stanton suggested drafting a letter to the Selectboard detailing the specific reasons why the Board of Health is passing on a negative recommendation. He asked the Health Agent is there was enough time to write and approve such a letter prior to the next public hearing of the Selectboard.

Dr. Ruby Chang said this is a really important decision. This decision will forever impact the town of Housatonic and the decision will demonstrate how much the town cares for the citizens of Housatonic versus monetary gains of other people. Dr. Chang said we take this very seriously and we want concrete information, which has not been presented to the BOH.

Mr. Lanoue said he recommends not voting on a recommendation tonight but reconvening on October 17, 2019 to review and vote on a letter to the Selectboard. "However, we are all on board to say that we will pass on a negative recommendation and we just want to work on the language to be as specific as possible to aid the Selectboard in their decision making process."

**D. BUSINESS:**

- Berkshire Opioid Addiction Prevention Collaborative- Jennifer Kimball and Tapestry Health Presentation on relevant issues in Southern Berkshire County.

Jennifer Kimball, a principal planner for Berkshire Regional Planning Commission presented to the Board of Health and Liz Wynott from Tapestry Health. BOAPC provides education surrounding safe use, access health care, pain management, etc. BOAPC conducts disease prevention education for injection drug users. BOPAC provided funding to assist Volunteers in Medicine become completely opioid free in their pain management program. Berkshire County had an overall increase in opioid related overdose deaths in 2018 from previous years. Ms. Kimball said an article was recently published the American Journal of Public Health in 2018 that identified Berkshire County as having the highest rate of opioid users in the Commonwealth.

**E. HEALTH DEPARTMENT UPDATES**

- Health Agent Report

**F. BOARD OF HEALTH SPEAK TIME**

Ms. Jurczyk said the Massachusetts Department of Public Health passed an immediate ban on all vaping products last Tuesday, September 24, 2019. Governor Baker gave authority to local boards of health as well as police departments to enforce this ban. Ms. Jurczyk said that all licensed tobacco retailers have been notified through the Great Barrington Health Department of the ban and the mandated immediate removal of all vaping products. Ms. Jurczyk said a subsequent press release was also issued from the Town and the Health Department will be conducting compliance checks over the next few days.

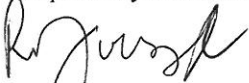
**G. CITIZEN SPEAK TIME**

**H. MEDIA TIME**

**I. ADJOURNMENT**

On a motion made by Peter Stanton, Seconded by Dr. Ruby Chang, with a unanimous vote, the meeting adjourned at 8:45PM

Respectfully Submitted,



Rebecca Jurczyk  
Health Agent