

Supplemental Materials re: Airport Special Permit

For Selectboard meeting of August 24, 2020

(The materials that follow here are in addition to packet posted on the Town website on 8/20/20 at 6:06PM)

August 8, 2020

Thaddeus Heuer
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BY ELECTRONIC MAIL

Stephen Bannon, Chair
Great Barrington Selectboard
334 Main Street
Great Barrington, MA 01230

Re: 70 Egremont Plain Road, Berkshire Aviation Enterprises

Dear Mr. Bannon and Members of the Selectboard:

With respect to the application of Berkshire Aviation Enterprises (“BAE”) for a special permit, please accept this correspondence on behalf of Holly Hamer, a statutory abutter to 70 Egremont Plain Road residing at 99 Seekonk Cross Road, and Marc Fasteau and Anne Fredericks, neighbors who will be impacted by the proposed project residing at 77 Seekonk Cross Road (collectively, the “Neighbors”). The Neighbors respectfully request that this letter be read into the record and incorporated into the record of this proceeding.

Upon review, it is evident that that the BAE application is procedurally deficient under Section 10 of the Great Barrington Zoning Bylaw. Nor is BAE unaware of these deficiencies: they were brought to its attention not only by the Neighbors in their letter to the Planning Board of July 22, 2020, but many were echoed by the Planning Board itself during its July 23, 2020 public meeting. It is concerning that BAE is nonetheless proceeding before the Selectboard on the same deficient application, regardless of whether BAE has *chosen* not to correct these deficiencies, or because it *cannot* correct these deficiencies. The application should be denied on this basis alone.

Should BAE be nonetheless allowed to proceed on the insufficient materials submitted, the Neighbors urge the Selectboard to deny the special permit, as the application simply does not meet the stringent legal standards for the grant of a special permit.

I. The Application is Procedurally Incomplete, Precluding Adequate Review by Both the Board and the General Public

The application is objectively incomplete in multiple respects, rendering adequate review by either the Board or the general public impossible. Despite the clear requirement of Section 10.4.5 that “an applicant for a special permit shall submit a plan in substantial

conformance with the requirements of Section 10.5.3 herein,” the application is missing numerous required components. To enumerate a non-exhaustive list of omissions:

- **Traffic Impact.** Despite declaring that “traffic patterns will change” if the application is approved (Application at 11), BAE chose not to perform a traffic impact assessment, and instead requested a waiver from the Planning Board. A traffic impact assessment is a central component of the “requirements of Section 10.5.3” that form the minimum required elements of a special permit application. Absent a traffic impact assessment explaining the changes to traffic patterns and their impact on this residential neighborhood, it is impossible for the Selectboard to adequately determine whether the alleged benefits of the project outweigh the adverse impacts on “traffic flow and safety.” This is one of the six criteria on which the Selectboard *must* consider as part of its evaluation of the application.

Further, the absence of a traffic impact assessment renders it impossible for the Selectboard to determine whether the application complies with Section 7.2, the bylaw provision *specific to aviation fields* requiring that aviation fields “be so located that [they are] not likely to become objectionable to adjoining and nearby property because of . . . traffic.”

- **Missing Building Plans.** The application does not include building plans (or elevations), as required by Section 10.5.3(1)(e) (“[a]ll existing and proposed structures on the property”), despite the fact that the application is in part a request for “the construction of aircraft storage building and hangars.” (Application at 11). Instead, the site plan merely provides the footprint of the proposed hangars, which is plainly insufficient to meet the requirement. During the Planning Board hearing, the Chair expressly observed that these items were missing from the application.
- **Missing Lighting Plan.** The application does not include a lighting plan as required by Section 10.5.3.1(*l*), despite the fact that Section 10.4.4.3 states that a special permit cannot be granted unless the Board considers the impact on both neighborhood character and the natural environment (Section 10.4.2). The inclusion of an overhead schematic and a commercial floodlight brochure — without indicating building elevations, cutoff information, or data regarding impact on surrounding properties — is insufficient for making such a determination. Indeed, during the July 23, 2020 Planning Board hearing, the Chair observed that the type of floodlights proposed by BAE were precisely the type the Planning Board does *not* wish to see on such projects.
- **Insufficient Evidence of Waterway Delineation.** Hangar construction is proposed at the very edge of the asserted Riverfront Area of the Green River, yet the application calculates this 200’ area based on a mere assertion in the site plan of the mean annual high water line of the Green River. Despite the highly technical and

subjective nature of that determination,¹ the application lacks any expert report from a wetland scientist—as would be routinely expected in circumstances involving a river like the Green River, whose course and banks are not bounded—explaining how the mean high water line was derived consistent with 310 C.M.R.

10.58(2)(a)(2). Without such supporting information, it is impossible for the Board to assess the accuracy of the proposed determination or the “[i]mpacts on the natural environment” as required by Section 10.4.2.5.

- **Insufficient Landscaping Plan.** The application does not include a sufficient landscaping plan as required by Section 10.5.3.1(k) (“Existing and proposed landscaping; limits of clearing; erosion and sediment control to be used during construction”). Sheet 4 of the site plan, labeled “Site/Landscaping Plan”, provides no indication of erosion or sediment control to be used during construction of the hangars or the paved taxiways and driveways, and merely delineates the NHESP boundary rather than describing the limits of proposed clearing.

In short, the Neighbors respectfully request that the Selectboard deny the application not simply for failure to meet the minimum requirements, but because BAE has known for over two weeks that its application was deficient yet chose to do nothing to correct those omissions.

Nor is this a case where an applicant can claim genuine unfamiliarity with either the requirements or the procedures: BAE has been represented by counsel in previous requests for zoning relief before both the Selectboard and the Zoning Board. Disregard for the objective requirements with which every other applicant must abide is more than sufficient grounds for the Selectboard to deny the application.

II. The Application Does Not Meet the Bylaw Requirements for a Special Permit

If BAE is nonetheless permitted to proceed to the merits of the application despite its objective deficiencies, the application should be denied. Even setting aside the inability of the Selectboard or the general public to properly evaluate the application due to the substantial amount of missing required information, the application does not meet the requirements for granting a special permit.

A special permit may be granted only on a determination that “the adverse effects of the proposed use will not outweigh its beneficial impacts (Section 10.4.2), after consideration by the Selectboard of six specific criteria. The application fails to meet these thresholds in numerous ways. It is well established in Massachusetts law that the burden

¹ “Mean Annual High-water Line of a river is the line that is apparent from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water and that distinguishes between predominantly aquatic and predominantly terrestrial land. Field indicators of bankfull conditions shall be used to determine the mean annual high-water line. Bankfull field indicators include but are not limited to: changes in slope, changes in vegetation, stain lines, top of pointbars, changes in bank materials, or bank undercuts.”

rests with the party seeking the special permit—BAE—to prove their entitlement to the special permit. *Fish v. Accidental Auto Body, Inc.*, 95 Mass. App. Ct. 335, 362-63 (2019) (“the ultimate burden of persuasion rest[s] upon the owner of the locus”) and cases cited.

The following summarizes numerous points on which BAE has failed to meet that burden, and which warrant denial of the special permit. Nor is this merely an instance of insufficient information. Indeed, even if BAE were to supplement its application, the fundamental incompatibility of the proposal with this residential neighborhood means that no amount of additional evidence would allow the Selectboard to reach the conclusion that the beneficial impacts of the proposal outweigh the adverse effects.

A. *General Observations*

- **Lack of Need.** Nowhere in the application does BAE even address the most basic question of a special permit applicant: why the proposed hangars are needed. During the July 23, 2020 Planning Board hearing, BAE stated that it has only five individuals interested in hangar space, yet is seeking permission to build six multi-plane hangars.

A special permit is a *special* permit – it is not granted by right, and the burden is on BAE to demonstrate need. It is entirely appropriate for the Selectboard to inquire as to why a special permit should be granted to build industrial hangars that are not demanded (on one hand), or why increased hangar space would *not* generate additional airport demand and in doing so exacerbate existing concerns regarding the impact of an airport in a residential neighborhood (on the other). BAE provides no evidence in support of its conclusory—and frankly counterintuitive—assertion that “[b]uilding aircraft hangars will not measurably increase and has no direct relationship with aircraft traffic at this location,” other than a vague reference to unidentified “studies or documents” (Application at 15).

- **Preexisting Nonconforming Use Status.** BAE repeatedly asserts that the airport is a pre-existing nonconforming use pursuant to Section 5.1 of the Bylaw. BAE has the burden of demonstrating that the airport qualifies as such a use. *Hall v. Zoning Board of Appeals of Edgartown*, 28 Mass. App. Ct. 249, 257 (1990). Given that Great Barrington introduced zoning in 1932, and that the MassDOT Aeronautics Division—as well as the same <http://airnav.com/airport/KGBR> website BAE itself cites for other data—states that the airport became an airport in April 1942, the objective evidence available suggests that the airport post-dates the introduction of zoning, not the other way around.

Curiously, BAE’s only evidence of the airport’s status (Application at 6) is copied verbatim from the text of a promotional 2017 blog post of the Great Barrington Historical Society. (<http://gbhistory.org/events/gb-airport-history-program-on-june-20th/>). Occasionally flying a “pair of . . . barnstormers” (Application at 6) on an unspecified number of occasions out of an onion farm hardly constitute the

establishment of an aviation field for zoning purposes. Nor does the mere incorporation on paper of the “Great Barrington Airport Association” (Application at 6)—of which no record appears on the Corporations Division website of the Secretary of the Commonwealth. The default presumption by law is that a use is *not* pre-existing nonconforming; the airport has the burden of proving to the satisfaction of the Selectboard that it is.

- **Inconsistency in Baseline Airport Demand.** BAE asserts that 52 total aircraft are based onsite, and that the forecasted demand by MassDOT is 59 aircraft by 2030. (Application at 4). BAE thus concludes that the growth of the airport will be minimal. Even setting aside whether projected growth of 13.5% over ten years is properly characterized as such, the Neighbors believe from their own observations (and supported by the 2020 Google Maps image of the airport, <https://goo.gl/maps/HGCsFy5fMqMxXgGEA>) that on average roughly *half* that number of aircraft are currently based onsite, meaning that a request to *maintain* 52 aircraft would in practice be an authorization to *nearly double* the number of aircraft.

Similarly, BAE states that there were 29,810 flights in 2008 (Application at 2), but fails to note that the official FAA data for 2019 shows only 17,700 flights (<https://adip.faa.gov/agis/public/#/airportData/GBR>). A request to *maintain* 29,810 annual flights would in practice be an authorization to *nearly double* the number of annual flights.

The Neighbors encourage the Selectboard to require current verifiable data, rather than conclusory assertions, regarding these crucial numbers and the means by which they are calculated (mean annual average, peak day, etc.).

- **Outdated Supporting Data.** BAE relies upon data that is literally *a decade old*, “collected from the MassDOT 2010 Massachusetts Statewide Airport Systems Plan” (Application at 1) to support its case for the need for hangar space. For instance, BAE asserts that in 2010 there was an “extensive list of 25” owners seeking hangar space at the airport (Application at 1-2), yet stated at the Planning Board hearing on July 23, 2020 that it has five individuals interested in hangar space. The propriety of the Selectboard granting a special permit based on outdated data such as these is highly questionable.
- **Section 7.2 Compliance.** BAE must demonstrate that it will comply with Section 7.2, which requires that “Any aviation field, public or private, with essential accessories . . . shall be so located that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic or other objectionable condition.” With refreshing honesty, BAE admits that “aircraft use may be considered, by some, to be a nuisance,” (Application at 23), thus conceding that the existing use is *already* objectionable. Where BAE now seeks to construct new “aviation field . . . essential accessories” at this location, BAE bears the burden under

Section 7.2 of demonstrating that such expansion will not exacerbate what it concedes is its already-existing objectionable nature.

BAE simply has not come close to doing so in this application. Instead, its statements in support of a Section 7.2 finding range from conclusory and vague (that the requested permit “is supported by the following [unspecified] research and study”) to the incomprehensibly nonsensical (that the impacts related to the construction of 44,000 square feet of *new hangars* “are minimal *as they currently exist* and *can be quantified by observation and experience* (emphasis supplied).”) (Application at 10). The Selectboard cannot find that BAE has met its burden under Section 7.2 on the basis of such statements.

B. Selected Observations on the Six Special Permit Criteria

1. Social, economic, or community needs which are served by the proposal

- **Lack of Evidence to Support Economic Impacts.** BAE asserts that the airport generates positive economic impacts, yet bases this conclusion on generic language copied from the Massachusetts *Statewide* Airport Economic Impact Study Update. (Application at 13-14). BAE has provided no data or economic analysis in its application to support the claim that any new significant economic benefits will inure to Great Barrington as a result of hangar construction at this *specific* airport. The Selectboard should not accept conclusory generic assertions of economic benefit absent empirical data.
- **Incompatible Assertions as to Growth.** There is a fundamental tension between BAE’s assertion that the special permit should be granted because there will be no growth in the use of the airport (Application at 6) and its assertion that special permit should be granted because it will enable the airport to “drive tourism to the town”, including through aerial tours, create “new job opportunities,” and generate “additional customers” for airport maintenance services (Application at 12). The Selectboard should inquire as to how these contradictory assertions are to be reconciled.
- **Lack of Evidence to Support Other Claims.** The application is replete with recurring discrepancies between implications and facts, particularly on the first special permit criteria (Application at 12-13). For instance, BAE’s statement that the new hangars will “provide jobs for local construction employees, tradesmen, and design professionals” (Application at 12) seems inconsistent with its concession during the Planning Board hearing that the hangars will be prefabricated, thus creating only temporary local employment at best. The Selectboard should require BAE to produce verifiable evidence supporting each of its assertions with respect to these criteria.

2. Traffic flow and safety, including parking and loading

- **Increased Commercial Traffic in a Residential Neighborhood.** Absent a traffic study, it is impossible to determine extent of the detrimental impact of the proposed expansion on “traffic flow and safety.” Yet the site plan shows that while existing parking is on the *south* (terminal) side of the runway, significant new parking will be on the *north* (hangar) side of the runway. The proposed hangars will thus be located on the opposite side of the runway from the airport’s terminal/office and bathroom facilities.

Because the existing runway entirely bisects the site east-to-west, it is physically impossible to travel from the north side to the south side without traversing the runway itself. As a result, those using the hangar-side parking will either walk across an active runway to access the terminal and facilities—which BAE insists will not occur (“airport security fencing . . . ensure[s] pedestrians are not walking in aircraft use areas,” Application at 20) *despite showing no such security fencing on its site plan*—or drive from the hangars via Seekonk Cross Road to the terminal at Egremont Plain Road, thus increasing traffic well beyond what BAE has predicted.

3. Adequacy of utilities and other public services

- **No Analysis of Impact on Public Services.** BAE asserts that because the airport “does not utilize public utilities” that “this standard is not applicable to this Application.” (Application at 14). BAE inexplicably ignores the obligation of the Selectboard to evaluate not just the adequacy of “utilities,” but also “other public services”, including anticipated demand as a consequence of the expansion on municipal police, fire, and public works services, among others, including but not limited to responses to adverse airplane incidents (including crashes).

BAE’s conclusory assertion—that there will be no such impact—is insufficient to meet its burden. Indeed, given that by BAE’s *own estimate* the hangar construction will generate at most only approximately \$31,500 in additional annual revenue (see below) and likely less, any marginal increase in the airport’s demand for municipal services would potentially moot any alleged financial benefit to the Town.

4. Neighborhood character and social structures

- **Adverse Impact on Residential Neighborhood Character.** BAE’s assertion that “the 87.7-acre property included under airport ownership constitutes most of the neighborhood context” (Application at 14) lacks any credible factual foundation. A circle with a one-mile radius comprises over 2,000 acres. *The entire area within a one-mile radius of the airport is zoned residential, either R-4 or R-2.* Because the airport is located in the R-4 residential zoning district, it is the *residential* character of the neighborhood that is relevant for evaluation of the special permit criteria. BAE has provided no evidence or justification as to why the benefit of locating

commercial/industrial airplane hangars in a residential district outweighs the detriment to the character of this residentially-zoned neighborhood.

- **Noise.** Despite the express requirement of Section 7.2 as to noise, BAE fails to recognize, much less address, the impact of tens of thousands of aircraft flights (Application at 2) on level and extent of noise in the overwhelmingly residential neighborhood in which it is located, and over which BAE admits its planes fly “for long distances” (Application at 15). Inexplicably, BAE declares that a *benefit* of the airport is the ability for it to be used for “night training” exercises (Application at 13), apparently without comprehending that such activity exacerbates the adverse impact of the airport on the neighborhood. Indeed, at the July 23 Planning Board hearing, BAE stated that while it had a noise mitigation policy, it was difficult to enforce compliance with the policy by its pilots. That excuse should be unavailing to the Selectboard: the inability to enforce is a reason to deny the special permit, not to place the impacts of noncompliance on the surrounding residents.
- **Lighting.** Commercial/industrial-grade floodlighting is fundamentally incompatible with a residential neighborhood. While the submission of a compliant lighting plan would enable the Selectboard to properly evaluate the extent of the adverse impact of the proposed lighting, BAE’s argument that the hangars require such lighting merely begs the question. The proper question under the special permit analysis is not what level of commercial/industrial floodlighting the residential neighborhood should be required to accept, but why a use that requires commercial/industrial floodlighting to operate is compatible with a residential neighborhood in the first place. This is BAE’s burden to prove; it has not.

5. Impacts on the natural environment

- **Groundwater and Aquifer Impacts.** With respect to water matters, the application focuses only the limited question it wishes to answer, contending that BAE has minimized the “threat of . . . water pollution” by managing *stormwater runoff* (Application at 19). Yet BAE fails to acknowledge — much less address — the significant *groundwater* complications that arise from the fact that both the airport and the proposed hangars sit on top of Great Barrington’s sole-source public aquifer. Such water pollution impacts are of equal (if not greater) concern than stormwater runoff. The Selectboard must be satisfied that BAE has adequately demonstrated that there will be no aquifer impacts from the proposed expansion.
- **Leaded Fuel.** BAE states that it *offers* both leaded and unleaded aviation gas (“avgas”) (Application at 19), yet provides no indication how much unleaded avgas it *sells* relative to leaded avgas. On August 6, 2020, Swift Fuels—the only vendor of unleaded avgas to the airport—informed the Neighbors that since October 2017, the airport has purchased only *9,000 gallons of unleaded avgas*. At an average usage rate of 15 gallons/per hour, there have thus been at most only 600 hours of unleaded avgas flying time in the past three years—a miniscule fraction of the total number of

hours flown from the airport. In blaming “the EPA and FAA” for not doing “more to require aircraft to use unleaded fuel” (Application at 19), BAE essentially admits that a very large proportion of its planes are still utilizing leaded avgas, and that the associated concerns arising from airborne lead from engine exhaust, as well as groundwater pollution from spilled fuel, refilling errors, and crashes, remain a significant problem. The Selectboard should rely on data, not implication, in evaluating the potential deleterious impact of significant quantities of leaded avgas in the vicinity of the aquifer, particularly if airport usage were to increase.

- **Quantities of Toxic and Hazardous Materials.** Although located entirely within the WQPOD, BAE contends that the airport is exempt from the WQPOD special permit requirement for handling toxic and hazardous materials in quantities greater than those associated with normal household use, because the airport is currently a “very small quantity generator” for purposes of Section 9.2.8(4)(a). (Application at 5).

Even if currently true—and the Selectboard should require independent verification—the airport’s own website indicates that it already offers extensive maintenance services. To protect the aquifer, the Selectboard must understand a) how BAE currently disposes of its toxic and hazardous materials, *regardless* of the quantity it generates, b) how the airport’s compliance with toxic and hazardous materials regulations is currently being enforced, and c) whether the airport would be able to maintain its “small quantity generator” status if activity increases due to the addition of 44,000 square feet of hangar space.

Indeed, while BAE is requesting six new aircraft storage hangars, it has not committed to retiring the existing on-ground tie-down areas in exchange. The consequence would be a significant increase in total available aircraft parking (from on-ground only to on-ground *plus hangars*), thus increasing the maximum number of aircraft that could be present—and therefore increasing the potential overall volume of hazardous and toxic materials on site.

- **Enforcement of Toxic and Hazardous Materials Storage.** BAE asserted at the July 23, 2020 Planning Board meeting that the risk from hazardous and toxic maintenance chemicals would be mitigated by prohibiting such materials in the hangars. However, the Neighbors understand that each hangar is expected to have two storage compartments, and note that the existing maintenance facility is on the opposite side of the runway. Under such circumstances, the Selectboard should scrutinize both the significant likelihood that the hangars will be used to store toxic and hazardous materials out of convenience, and the ability of either BAE or the Town to monitor or enforce any nominal prohibition in practice.
- **Wastewater Impacts.** The airport’s sole bathroom facility is designed for the two-bedroom house that has been converted into the airport’s terminal/office (to which no “physical modifications” are proposed, Application at 6), for a facility that BAE suggests already has “12 employees” and anticipates “new job opportunities” if the

application is approved (Application at 12), in addition to serving an alleged 29,810 flights annually (Application at 2). Yet BAE contends that because the *hangars themselves* will have no water or sewer service, the requirement of Section 10.5.5.7 to “minimize contamination of groundwater from on-site waste-water disposal systems” is “not applicable to this project.” (Application at 21). Far from being inapplicable, demonstrating why expansion will not overburden such a wastewater disposal system — and thus not have a detrimental “impact[] on the natural environment (Section 10.4.2.5) — is essential.

6. Potential fiscal impact, including impact on Town services, tax base, and employment

- **Adverse Net Fiscal Impact.** BAE focuses on the asserted *gross* fiscal impact on the Town’s tax base due to the marginally *increased* value of the airport’s land, but ignores the *net* fiscal impact in light of the significantly *decreased* land value of the numerous residential properties around the airport, both due to visual impact of six industrial hangars in a residential neighborhood and due to increased airport usage, noise, and nuisance. The Selectboard should insist on understanding the *net* impact of the project on the tax base, which is the critical point for municipal revenue purposes.
- **Minimal New Real Estate Tax Revenues.** BAE asserts—without evidence—that construction of the hangars will “increase [the] taxable value of the airport by approximately \$2 million” (Application at 16). While this may sound large, at the current municipal rate of \$15.75/thousand, such an increase would generate *at most* \$31,500 in annual revenue. Yet even that estimate is almost certainly a significant overstatement, since it presumes the hangars would be assessed under the so-called “cost approach” (i.e., the value of the hangars themselves). Commercial property in Massachusetts is usually assessed by municipalities under the “income approach,” based on how much income the property generates. If, as BAE itself asserts, there is minimal demand for the new hangars, they will generate little income, and therefore will generate nominal (if any) real estate tax revenues for Great Barrington. The Selectboard should insist upon determining a credible estimate of the *actual tax revenues*—not just the “taxable value”—that would be generated by the project.
- **No Sales or Use Tax Revenues.** Nor will the new hangars generate any other tax revenue, since under Massachusetts law (G.L. c. 64I, § 7) there is an express exemption from use tax both for the storage of aircraft parts (§ 7(d)) and the “storage, use or other consumption of aircraft” themselves (§ 7(e)). Moreover, under G.L. c. 64H, § 6, there is an exemption from sales tax for services generally (including maintenance, repair, or instruction), and on aircraft fuel (§ 6(j)), aircraft parts (§ 6(uu)), and aircraft themselves (§ 6(vv)) in specific. And while municipalities are entitled to receive excise taxes from the sale of aircraft fuel in their jurisdictions (G.L. c. 64J), given BAE’s assertion that there will be no growth, no such new revenues would be anticipated.

III. Conclusion

The special permit application requirements are not complicated. They exist to ensure that all applicants are held to the same objective standards, and that the Board and the general public have the minimum information necessary to enable adequate review. Where BAE has submitted an objectively deficient application, and—despite being on ample notice by both Neighbors and the Planning Board—failed to remedy those deficiencies, the courtesy of a continuance is simply not warranted. Neighbors urge the Selectboard to deny the application on this basis alone.

Should BAE nonetheless insist on proceeding on the materials submitted, the Neighbors urge the Selectboard to deny the special permit, because the application does not meet any of the legal standards for the grant of a special permit. The fundamental incompatibility of the proposal with this residential neighborhood means that no amount of additional evidence would allow the Selectboard to reach the conclusion that the beneficial impacts of the proposal outweigh the adverse effects.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thaddeus Heuer', with a stylized, cursive script.

Thaddeus Heuer

Cc (by email): Mark Pruhenski, Town Manager
Christopher Rembold, Town Planner
Holly Hamer
Marc Fasteau & Anne Fredericks

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VIA FIRST CLASS MAIL AND EMAIL (crembold@townofgb.org)

August 21, 2020

Mr. Stephen Bannon, Chair
Town of Great Barrington Selectboard
334 Main Street
Great Barrington, MA 01230

Re: Application for Special Permit – Berkshire Aviation Enterprises, Inc. –
70 Egremont Plain Road

Dear Mr. Bannon and Selectboard Members:

Please accept this letter as a response to Thaddeus Heuer, Esq.'s letter to you dated August 8, 2020 (the "August 8th Letter") with respect to the Application for a Special Permit (the "Application") submitted to you by Berkshire Aviation Enterprises, Inc. (the "Applicant") in connection with the aviation field (the "Airport") located at 70 Egremont Plain Road (the "Property").

With respect to the purported deficiencies identified in the August 8th Letter, at its hearing on August 10, 2020, the Selectboard, which is the arbiter with respect to completeness of the Application, requested additional information from the Applicant, which information has been provided to the Selectboard by SK Design Group as of August 19, 2020. In the event that the Selectboard, requires any additional information, please do not hesitate to contact the undersigned.

As for the criteria to be considered by the Selectboard in connection with the Application, as set forth in Section 10.4.2 of the Zoning Bylaw of the Town of Great Barrington, Massachusetts (the "Bylaw"), it is the Applicant's position that after consideration by the Select Board of the six specific special permit criteria, the Select Board will find that the adverse effects of the Airport will not outweigh its beneficial impacts.

1. **Social, economic, or community needs which are served by the proposal:** The "needs" set forth in the Bylaw refer to the use of the Property – aviation field – which has already been established since the Airport has been continuously used as an aviation field since 1931. Therefore, the need criterion has been met since the (pre-existing, non-conforming) use already exists.

2. **Traffic flow and safety, including parking and loading:** SK Design Group has

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supplied additional traffic study information as part of its supplement to the Application (collectively, the “Supplemental Materials”). In general, additional traffic trips should be modest in as much as the Property is already used as an aviation field and any increased traffic associated with the potential construction of airplane hangars (collectively, the “Hangars”) on the far northern edge of the Property (the “Hangar Project”) will be redirected away from Egremont Plain Road and toward the northern portion of the property. In addition, construction of overflow parking is anticipated to the north of the current airport office building, as shown on the plans submitted with the Supplemental Materials, thereby eliminating the congregation of cars along Egremont Plain Road – an improvement compared to current conditions.

3. Adequacy of utilities and other public services: The Property is served by a septic system and private well, both of which are sufficient for the Airport’s current needs, as well as its needs for the foreseeable future. No new bathroom facilities are planned in connection with the Hangar Project.

4. Neighborhood Character and Social Structures: The character of the neighborhood, including the Airport, has been established. In fact, the neighborhood has grown up around the Airport. Therefore, the proposed aviation field use does not change the character of the neighborhood since it already exists. In addition, the Hangar Project will not change the character of the neighborhood because (a) the height of the Hangars is lower than the existing hangars located at the airport, (b) the proposed siting and color of the Hangars were chosen in a thoughtful manner so as to have the least impact on the surrounding neighborhood.

5. Impacts on the Natural Environment: Because the use will not change if the Select Board grants the special permit, there will be no impacts on the Natural Environment. With respect to the Hangar Project, the site was thoughtfully selected so as to ensure that all improvements will be located outside of (a) the riverfront area, (b) the Massachusetts Wetlands Protection Act buffer zone and (c) the Massachusetts Natural Heritage and Endangered Species Program priority habitat. Moreover, the Great Barrington Conservation Commission has determined that the Hangar Project does not implicate its jurisdiction. In addition, the Supplemental Materials address concerns raised by neighbors in connection with potential impacts on the natural environment.

6. Potential Fiscal Impact, Including Impact on Town Services, Tax Base and Employment: The airport regularly attracts visitors to Great Barrington, which in turn, has a positive impact on the local economy. If the Hangar Project is approved, the construction of the Hangars will increase the real estate taxes assessed on the Property.

With respect to Attorney Heuer’s position regarding the Application’s compliance with Section 7.2 of the Bylaw, as the Selectboard knows, Section 7.2.2 provides that the provisions of Section 7.2.1 “shall not apply to structures which will be 30 feet or less in height above ground.” There are no structures proposed in connection with the Hangar Project that approach 30 feet in height above ground – all Hangars are substantially less than 30 feet in height.

Mr. Stephen Bannon, Chair

August 21, 2020

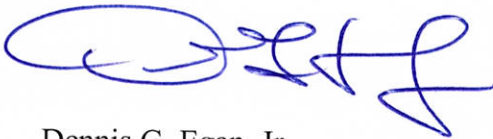
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In conclusion, as set forth herein, the Application meets all of the legal standards for the grant of a special permit.

Should you have any questions or require an additional information, please do not hesitate to contact me.

Sincerely,

COHEN KINNE VALICENTI & COOK LLP

A handwritten signature in blue ink, appearing to read "DGE", with a large, stylized flourish at the end.

Dennis G. Egan, Jr.

DGE/
223145

Chris Rembold

From: Steve Bannon
Sent: Friday, August 21, 2020 11:03 AM
To: Helen Kuziemko; Chris Rembold; Mark Pruhenski
Subject: Fwd: [Great Barrington MA] Airport expansion (Sent by Michael Ury, ury708@gmail.com)

Sent from my iPhone
Stephen Bannon
413 -446 -6957

Begin forwarded message:

From: Contact form at Great Barrington MA <cmsmailer@civicplus.com>
Date: August 21, 2020 at 11:02:08 AM EDT
To: Steve Bannon <sbannon@Townofgb.org>
Subject: [Great Barrington MA] Airport expansion (Sent by Michael Ury, ury708@gmail.com)
Reply-To: <ury708@gmail.com>

Hello sbannon,

Michael Ury (ury708@gmail.com) has sent you a message via your contact form (<https://www.townofgb.org/user/76/contact>) at Great Barrington MA.

If you don't want to receive such e-mails, you can change your settings at <https://www.townofgb.org/user/76/edit>.

Message:

I read Ann Fredericks letter with alarm. If the town does not benefit from taxes or other significant fees from the airport then please oppose this plan. The only "benefit" I receive from the airport is frequent noise from low overflights on beautiful summer days. I think this is an area where the town can exert some effort to hold the line on our taxes by getting this airport to do there share.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Chris Rembold

From: Steve Bannon
Sent: Friday, August 21, 2020 9:41 AM
To: Helen Kuziemko; Chris Rembold; Mark Pruhenski
Subject: Fwd: [Great Barrington MA] Requesting a NO vote on expansion of the airport (Sent by Dennis and Judy Mareb, office@windyhillfarminc.com)

Stephen Bannon
413-446-6957
Sent from my iPad

Begin forwarded message:

From: Contact form at Great Barrington MA <cmsmailer@civicplus.com>
Date: August 21, 2020 at 9:39:55 AM EDT
To: Steve Bannon <sbannon@Townofgb.org>
Subject: [Great Barrington MA] Requesting a NO vote on expansion of the airport (Sent by Dennis and Judy Mareb, office@windyhillfarminc.com)
Reply-To: <office@windyhillfarminc.com>

Hello sbannon,

Dennis and Judy Mareb (office@windyhillfarminc.com) has sent you a message via your contact form (<https://www.townofgb.org/user/76/contact>) at Great Barrington MA.

If you don't want to receive such e-mails, you can change your settings at <https://www.townofgb.org/user/76/edit>.

Message:

We are writing this letter out of concern that a special permit be granted to Berkshire Aviation Enterprises for expansion of their operation in a residential neighborhood.

One of our chief concerns is that our underground aquifer which lies under and around the airport be permanently protected against potential pollutants getting into this critical recharge resource. My family home and aquifer on Cape Cod was permanently contaminated by a nearby airport and remains contaminated to this day. Sandy and gravelly soil types are particularly vulnerable to this type of pollution that is not easily reversible.

Increased air traffic and noise pollution is certainly a concern for all of us who choose to live here in the Berkshires. Safety from potential mishaps in our surrounding neighborhoods with increased air traffic should be another concern. It is imperative that the town not give up its voice in how the airport can operate now and particularly in the future.

Clearly for the above reasons and the Great Barrington Master Plan which considers the airport the greatest threat to our water, we ask that the

special permit not be given to the development of this airport expansion project.

Dennis and Judy Mareb
Windy Hill Farm, Inc.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Chris Rembold

From: Steve Bannon
Sent: Friday, August 21, 2020 11:12 AM
To: Helen Kuziemko; Chris Rembold; Mark Pruhenski
Subject: Fwd: [Great Barrington MA] Airport Expansion (Sent by Julie Anidjar, juliepai@gmail.com)

Stephen Bannon
413-446-6957
Sent from my iPad

Begin forwarded message:

From: Contact form at Great Barrington MA <cmsmailer@civicplus.com>
Date: August 21, 2020 at 11:10:42 AM EDT
To: Steve Bannon <sbannon@Townofgb.org>
Subject: [Great Barrington MA] Airport Expansion (Sent by Julie Anidjar, juliepai@gmail.com)
Reply-To: <juliepai@gmail.com>

Hello sbannon,

Julie Anidjar (juliepai@gmail.com) has sent you a message via your contact form (<https://www.townofgb.org/user/76/contact>) at Great Barrington MA.

If you don't want to receive such e-mails, you can change your settings at <https://www.townofgb.org/user/76/edit>.

Message:

Dear, Mr. Bannon.

I am writing to urge you to turn down the current application for a special permit to expand the Walter J. Koladza airport. The project offers no tangible benefits to the town of Great Barrington and its residents and instead opens a pathway for increased noise to the airport's abutting neighbors, pollution of a major water source, and safety hazards that are already evidenced by near-miss crashes between low-flying aircraft and automobiles on Seekonk Cross Road. In terms of revenue or jobs, the airport offers neither to the town or local residents.

Many thanks for your attention to this matter.

Sincerely,

Julie Anidjar

Chris Rembold

From: Steve Bannon
Sent: Friday, August 21, 2020 9:20 AM
To: Helen Kuziemko; Chris Rembold; Mark Pruhenski
Subject: Fwd: [Great Barrington MA] Airport (Sent by Dana Dapolito , Dana.dapolito@gmail.com)

Stephen Bannon
413-446-6957
Sent from my iPad

Begin forwarded message:

From: Contact form at Great Barrington MA <cmsmailer@civicplus.com>
Date: August 21, 2020 at 9:18:00 AM EDT
To: Steve Bannon <sbannon@Townofgb.org>
Subject: [Great Barrington MA] Airport (Sent by Dana Dapolito , Dana.dapolito@gmail.com)
Reply-To: <Dana.dapolito@gmail.com>

Hello sbannon,

Dana Dapolito (Dana.dapolito@gmail.com) has sent you a message via your contact form (<https://www.townofgb.org/user/76/contact>) at Great Barrington MA.

If you don't want to receive such e-mails, you can change your settings at <https://www.townofgb.org/user/76/edit>.

Message:

Dear Steve,
Please do not grant The special permit for the airport to expand so radically. It is not good for the resident so great Barrington for the environment or for the town.
Respectfully,
Dana Dapolito

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I have the documentation to support my claim

Please stop ignoring me, my documentation, and a political struggle placed upon me by airport owners, town officials and immediate neighbors. Please stop putting them before me, it is discrimination, Terry Anderson the airport agent is the teller from Berkshire Bank involved in airport owner Mr. Jacob's 1.4 million dollars missing from his account in 2017.

This serves as a complaint against Mr. Johnathan Hankin in his capacity as a 33 year veteran of the Gt. Barr. Planning Board which initiated bylaw codification in 2008 and the 2010 Gt. Barr. Master Plan of which he is an indefinite member of the Master Plan committee who is a real estate agent, a land abutter of my 78 E.P. R. property and 70 E. P. R. Berkshire Aviation Enterprise and his role as member of the Planning Board in relation to 195 St Rd. and 78 E.P.R. both of which unbeknownst to me both had land uses for auto body / auto repair in relation to B.A.E., the airport.

Mr May the Gt. Barr., Building Commissioner and his intentional intimidating, bullying, demeaning, blatant harassment, calling me a fucking jew behind my back and not overheard by me, intentionally documenting lies about me and the rights to my property, and is still documenting zoning violations on my property but to date refuses to substantiate his claim.

Assistant Town Manager Community Town Planner Mr. Rembold. No comment.

Mr. Atwood, Chairman of the Gt. Barr. Fire District who own the water rights under the properties out here in the WQPOD, who received the SWAP Report in 2003 and knew of the special rights attached to 78 E.P.R., was a member of the Finance Committee for years and became Selectmen for a brief stint and ordered the cease against us, and has been publicly vocal with negativities based on B.S.

These are the "4 men in town" mentioned in airport owner Rick Solan and his B.S. olive branch (att.)

In 1998 I was sent a letter with suggested revision to the Home Occupation section of the Zoning bylaw. It was from the Planning Board chairman Mr. Goranson stating the results of the revision was the work of a subcommittee of the Planning Board headed by Johnathan Hankin. It went on to state the Planning Board would be very interested in my reaction to this proposed Bylaw Revision being quote "Trades such as the servicing, maintenance, or restoration of motor vehicles are expressly prohibited in all residential zones. It goes on to state the "revision attempts to make clear that, in a residential zone, there should be no noticeable change that would affect the neighborhood character.

This directly followed the 1997 episode we had with the Environmental Strike Force who gave us the permanent EPA# from the DEP that attaches to 78 E.P.R. I did not understand the significance.

In 2003 the Federal Government mandated all states document land uses in Public Recharge Areas, assess these uses for susceptibility to contamination and to publicize the results and the Source Water Assessment Program Report (SWAP) was written for the Gt. Barr. Fire District who own the water rights in the WQPOD and is chaired by Mr. Atwood.

This SWAP Report documents my 78 E.P.R. property as a Regulated DEP Permitted Facility within the Water Supply Protection Area with a Permitted Activity of a Very Small Quantity Generator (VSQG), an Activity Class of Hazardous Waste Generator and a Facility Description of auto body.

This Swap Report list the airport with underground tanks period, and as the biggest threat to the WQPOD in Gt. Barr.

This Report was c.c. to the Board of Health, Conservation Commission, and the Planning Board Mr. Hankin, so the Town has known all about the rights that attach to 78 E.P.R. since March 2003 and was fully aware of those rights when the Planning Board came after us in Nov. 2004 two months after Walt Koladza passed away and it has been a political barrage since.

There used to be signs along Egremont Plain road designating this as a Water Quality Protection District per the SWAP Report but those were taken down years ago.

On June 17th 2007 Attorney Mark Bobrowski Land Use and Planning Specialist who codified bylaws for other communities gave a training session to the ZBA and the Planning Board it which Mr. Rembold stated the airport never obtained a special permit to operate and Mr. Hankin stated the airport was in the WQPOD and had underground fuel tanks and ZBA member Miss Meagher stated the airport wants to expand with a garage and a restaurant. So since 2007 the Town has known B.A.E. wants to expand.

In 2008 the Town retained Attorney Brobrowski to codify the zoning bylaw and bring it up to "statue and case law".

In Sept. 2007 I applied for a simple building permit to renovate the shack on 195 St. Rd. that turned into a nightmare. Mr. May forced me to retain an architect if I wanted that building permit despite one not being mandatory. I retained S-K Design Group Mr. Jim Scalise and wound up with a Certificate of Occupancy for a Motor Vehicle Fuel Station that allowed oil changes and brake jobs.

The Planning Board then proceeded to eliminate from the bylaw any and all ways we could use 195 St. Rd. for our trade of auto body in the new 2010 bylaw.

In 2009 195 St. Rd. was a B-2 District.

The codified 2010 bylaw took auto body away from Fuel Stations, under General Service Establishments it added an exception for no motor vehicles and under Personal Establishments Painter was removed. It was discovered in e-mails between S-K Design Jeromy Richardson and the Gt. Barr. Building Commissioner Mr. May that in fact 195 St. Rd. was

obviously not a fuel station and the two men had agreed among themselves to change the real use of auto repair and auto body to a fuel station and agreed to eliminate the ventilation from the garage. Disabling us from using 195 St.Rd. profitably.

On June 2012 five years later with the help of State Inspector Gordon Bailey Mr. May had to reissue the proper Certificate of Occupancy for 195 St. Rd. for S1-Use group of Auto Repair.

In 2008 the Planning Board Chaired by Johnathan Hankin initiated the Zoning Bylaw codification.

In 2008 the Town Manager directed the Town Planner Mr. Rembold and the Building Inspector Mr. May to work closely with the Planning Board on the codification. The Selectmen and Zoning Board of Appeals reviewed the drafts "ensuring the bylaw stays true to its intent and Gt. Barr. uniqueness". So all the town officials all knew of the contents of the bylaw.

One of the revisions was the added provision to the WQPOD Section 9.2 for a "Motor Vehicle Repair Operation", so a Home Occupation of auto repair is strictly prohibited in all R-4 Zones but a Motor Vehicle Repair Operation is permitted in the WQPOD. This Operation would require the E.P.A. identification number that attaches to my residence known as 78 E.P.R. no longer obtainable simply put, because the Planning Board Mr. Hankin also added a new definition in the codified 2010 Zoning Bylaw WQPOD Definition Section 11 of a VSQG, Very Small Quantity Generator as being quote "any entity public or private other than residential" commercializing the status that attaches to my 78 E.P.R.

There was a new exemption also added to WQPOD Section 9.2 exempting a VSQG from the following allowing for, a Solid Waste Combustion Facility or Handling Facility (Transfer Facility) a House Hold Hazardous Waste Center and Events and a Commercial Car Wash. These 2010 added provisions would require a E.P.A. Identification Number and that number attaches to my residence known as 78 E.P.R. and as I stated and for the record is no longer obtainable in the WQPOD, although it appears the airport has obtained one. These numbers are now obtainable on line, this needs to be looked into, how many other properties in the WQPOD have obtained this status and are now "commercial"?

In Feb. 2008 as soon as Walt's estate was settled the Berkshire Eagle ran an article "Foursome confident they will land safely" regarding all their big plans.

In March of 2008 the Berkshire Record owned by a pilot ran a series of negative articles portraying us as having no place in Gt. Barr. to operate a legal automotive repair shop. In one of these articles Manager Burke Leclair stated in regards to local officials concerns of zoning and possible environmental concerns at 78 E.P.R. "town officials are currently looking into and discussing possible courses of action stating he has spoken with Mr. May, Town counsel and the Board of Selectmen. He said it could be the town calling the DEP or some type of enforcement through zoning which is usually not a quick and easy process but can be done".

And that is what was done Mr. Hankin and it is the basis of this complaint the fact that the zoning bylaw was manipulated around 195 St. Rd., 78 E.P.R., the VSQG status RCRA Generator status the attach permanently to my piece of an airport and our rights denied in relation to B.A.E., two properties that you about Mr. Hankin.

The “appropriate course” of action should have been legal instead it was, has been, and is, **political**.

Mr. Hankin wrote the 2008 Searles School Proposal for Attorney Goldman and that turned into a fiasco.

On Nov. 1st 2009 Mr. Hankin sent an e-mail to his boss Joe Carini Wheeler and Taylor Realty, and Attorney Roger Goldman CEO of 1Berkshire, mentioned in the Master Plan as an economic development organization to work with. The e-mail depicts a husband and wife restored car collection that states “Danny Bell on Steroids”. Shortly after,

On Jan. 29th 2010 we received a ceases and desist ordering us to ceases repairing cars. This is long after the Town and Mr. Hankin received the SWAP Report and knew of the rights attached to 78 E.P.R. This was at the same time the Planning Board Mr. Hankin was adding a provision for a Motor Vehicle Repair Operations in the WQPOD that would require “Evidence of compliance with the Mass. Hazardous Waste Management Act, including obtaining an EPA # from the DEP”. This applies directly to 78 E.P.R. and have documentation from the DEP assuring compliance with the Mass. Hazardous Waste Management Act, and its DEP Permitted, Regulated Facility within the Public Recharge Area.

In 2013 the airport applied for a special permit to construct a deck and a handicapped ramp. At the Selectmen’s recorded hearing Mr. Hankin got up and explained to the Board that “if the structure at hand was residential it would require a building permit but because it is commercial it requires a special permit.

I got up with the residential property tax card, stated such and read off the card that it was a 2 bedroom house last inspected in 2006 and that Mr. Hankin was a land abutter of the airport property constituting a conflict of interest to be ignored. Since this episode the airports residential tax card was changed to a commercial property tax card. This is spot zoning and is illegal.

Mr. Hankin was also at the June 17th 2017 special permit Selectmen hearing for the airport when the Chair Sean Stanton told the airport “you do know you could not establish yourself where you are located today” referencing the WQPOD.

Mr. Hankin was also at the recorded Oct. 30th 2019 airport meeting held at Fairfield Inn with Mr. Scalise I was intentionally not invited to and asked Mr. Scalise twice is “so in your professional opinion these hangars do not trigger the WQPOD” and Mr. Scalise responded “no

not the modest size of this proposal, no". This constitutes a conflict of interest for Mr. Hankin and further more is untrue.

Mr. Hankin was also at the Dec.17th 2019 airport meeting I was again not invited to but was tipped off to. I asked Mr. Scalise what section of the zoning bylaw the airport was filing under and Mr. Hankin responded "Section 10.4 Special Permits". This constitutes a conflict of interest for Mr. Hankin.

I asked Mr. Hankin who added the provision for a Motor Vehicle Repair Operation to the WQPOD Section of the bylaw in 2010 and stated it was certainly not put in there for Claudia Shapiro or Danny Bell and he said "the DEP put it in there and I called him out on it".

The next day I called the DEP and was told no they do not put provisions in the bylaw and was asked who Mr. Rembold was, that she had correspondence with him did I want a copy? Two days later I am reading with disbelief correspondence dated, Feb. and March 2015 between Mr. Rembold with input from Mr. Hankin requesting amendments to the WQPOD Section 9.2 specifically removing from Section 9.2.9 Prohibited Uses; Stream and Lake Protection Zone prohibiting;

1. New structures or expansion of existing structures by more than 10% of the existing gross floor area.

Also deleted from the zoning bylaw Section 11 Definitions was the Stream and Lake Protection Zone;

- 1) The land area within 500 a five-hundred foot distance will apply to the Green River itself and its upstream tributaries of the water supply gallery. According to the Town Planner assistant Town Manager Mr. Rembold "the Stream and Lake Protection Zone is burdensome and states the River Protection Act does the job and states "the local Town of Gt. Barr. Wetlands Bylaw Chapter 168 revised and adopted at the 2015 Annual Town Meeting includes protection over the Rivers Protection Act and Wetlands Protection Act see underlined portion below" and has underlined from the Gt. Barr. Wetland Bylaw Chapter 168 "Except as permitted by the Conservation Commission or as provided as provided in this chapter, no person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following wetlands resource areas, land within 500 feet of any lake, pond river or stream the is a public or private water supply".

So Mr. Hankin and Mr. Rembold know there is a five -hundred foot moratorium and have no problem violating it.

This attempt to hide the 500 foot Green River moratorium is to directly allow the construction of the six hangars proposed by BAE to be built within 200 feet of the bank of the Green River.

On April 27th 2020 the Berkshire Edge printed an article Parking Lot Imbroglia continues as Selectboard debates and one official asking another to recuse herself. The official is Mr. Hankin

asking Selectmen Kate Burke to recuse herself as a conflict of interest because she runs the Farmers Market in the parking lot. It was pointed out in the comments that Mr. Hankin at the 2010 Annual Town Meeting pushed for a solar bylaw that allowed his neighbor to "save his farm". This neighbor saved his farm that is abandoned of animals except the farmer and his wife and the farm completely neglected but they do receive a substantial income for the next twenty years. This neighbor happens to be a land abutter to the airport and happened to have taken free flying lessons. I know nothing about extortion but feel it is about me and in more ways than one as I read with further dismay a letter to the editor of the Edge by Mr. Hankin titled "Great Barrington Selectmen should not give in to extortion" regarding a special permit for a commercial parking lot at 11 School St.

Mr. Hankin states the Planning Board sent a unanimous negative recommendation for quote " the first time in at least a quarter of a century " is contrary to the attached March 12th 2010 unanimous recommendation from the Planning Board regarding a cease and desist to cease our body shop I did not know at the time was legal that states the following quote " the Planning Board respectfully submits that it supports strict enforcement of the prohibition of commercial uses in the R-4 district. The Planning Board believes that allowance of intense commercial uses such as motor vehicle repair and auto body would undermine the residential environment of the R-4 district and yet by May of the same year a provision for a motor vehicle repair operation was added to Section 9.2 WQPOD. This is highly contrary to the project you about, manipulated the zoning bylaw around and support with a positive Planning Board recommendation.

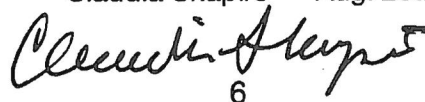
I see in your letter to the Edge you ask quote "What kind of town do we want to live in? One that has term limits and transparency.

You state to let the Selectmen know this spineless behavior is not acceptable. I am. You then go on to state "As dark money increasingly pervades and attacks our democracy at all levels, it is more important than ever for citizens to speak out". I am and have been speaking out for more than a decade Mr. Hankin, I am documenting that it appears that you are calling the kettle black and I am calling for your resignation because what you have done and are attempting to do is spineless and in quote "an odious project detrimental to our Town". So back off me once and for all, my DEP Permitted Regulated Facility, my piece of an airport, the towns sole source aquifer, the WQPOD and the Green River. My life hasn't mattered in this community publicly for over 12 years but my 78 E.P.R. property sure has.

At the July 23rd 2020 Planning Board hearing Chair Brandee Nelson stated "Johnathan has recused himself as he always does with the airport" sounded just like it is, more B. S.

Please address all my concerns and this complaint.

Claudia Shapiro Aug. 20th 2020

 Aug 20th 2020

Town Hall, 334 Main Street
Great Barrington, MA 01230



Telephone: (413) 528-5181
Fax: (413) 528-2291

TOWN OF GREAT BARRINGTON
MASSACHUSETTS

PLANNING BOARD

March 12, 2010

Zoning Board of Appeals
Town Hall
334 Main Street
Great Barrington, MA 01230

RE: Appeal of Daniel J. Bell

Dear Board:

We are in receipt of the notice of appeal of Daniel J. Bell from the Cease and Desist Order of the Building Inspector dated January 29, 2010 (the "Order"). The Order and Mr. Bell's notice of appeal were reviewed at the March 11, 2010 meeting of the Planning Board.

The Planning Board respectfully submits that it supports strict enforcement of the prohibition of commercial uses in the R-4 district. The Planning Board believes that allowance of intense commercial uses such as motor vehicle repair and auto body restoration/repair would undermine the residential environment of the R-4 district.

Thank you.

Very truly yours,

GREAT BARRINGTON PLANNING BOARD


BY: Donald O. Goranson, Chairman

Please Call Me

860-248-0524

Trust me -

We have 4 people in town
working to change the rule
So you can work out of your
Garage I need your help.

We need Peace or

BAC or Myself Have Never
Called the town or you
or Submitted photo's

I am offering an
Olive Branch

5/24/2016

Rick

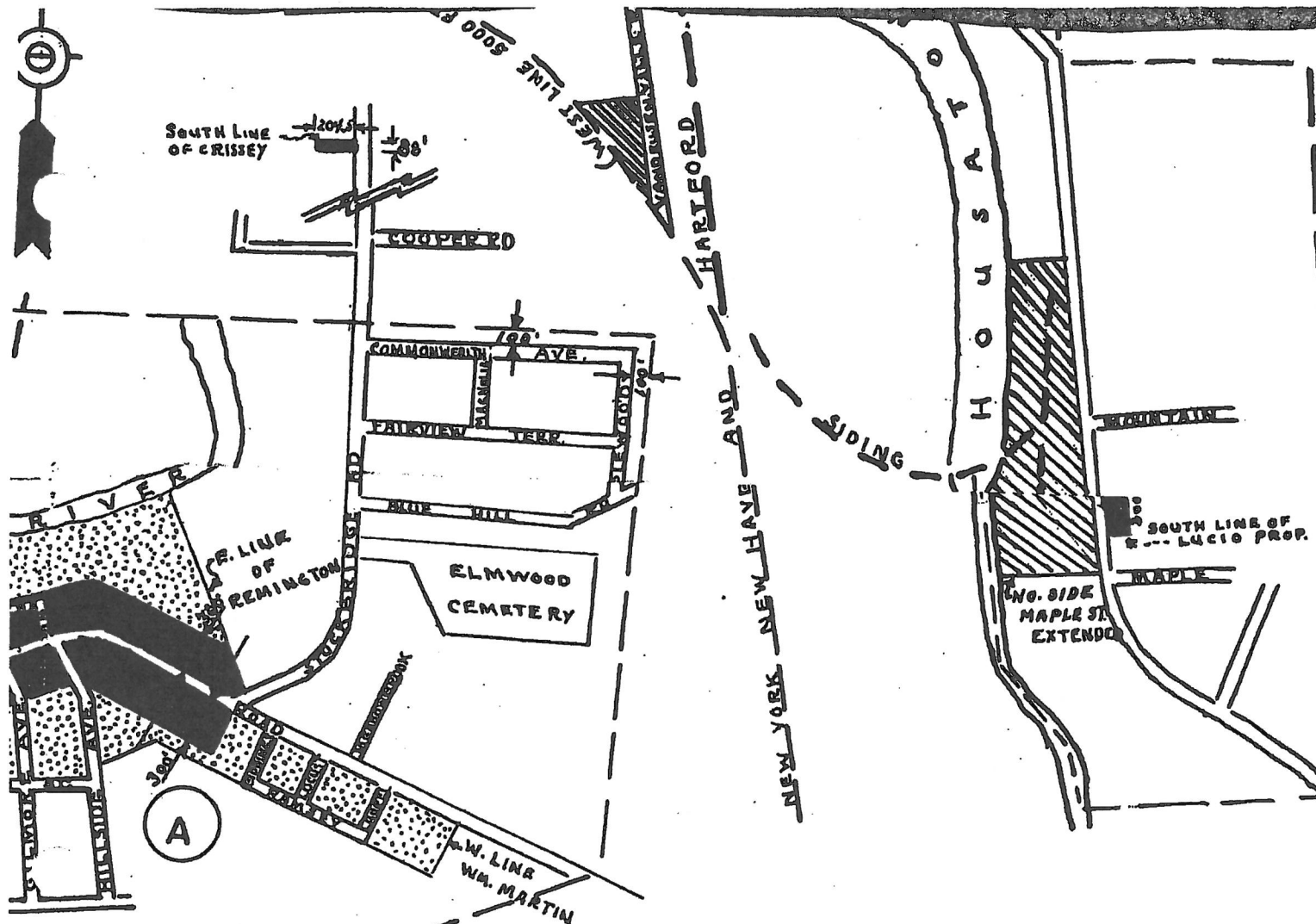
Airport History

I have the court case, B.A.E. deeds and newspaper articles to support my claim,

- 1) On July 29th 1929 Mr. Jacob Rossi and Mrs. Jennie Rossi purchased 70 E.P.R. and formed Berkshire Airways. Shortly after Mr. Rossi passed away.
- 2) Berkshire Airways was granted to the estate of Jacob Rossi in April 1930 to Jennie Rossi Executrix under the will of Jacob Rossi.
- 3) The property was then leased to Major Hugh Smiley for a 2 year period when Smiley was interested in flying on behalf of his son Hugh Smiley Jr.
- 4) At the conclusion of this lease the property was again operated on a limited basis by Berkshire Airways until sold to Congressman Captain Andrew Somers, a World War pilot who taught his three children to fly. Jennie Rossi held the mortgage and the property went into foreclosure.
- 5) In Feb. 1941 Jennie Rossi filed a claim in Superior Court against Captain Somers.
- 6) In June 1941 Jennie Rossi sold at auction under a court action titled Jennie Rossi Executrix under the will of Jacob Rossi and Individually vs. Andrew L. Somers Berkshire Superior Court No. 10730 to her counsel Frank H. Wright.
- 7) In July of 1941 Mr. Wright sold to Selectmen James F. Tracy who developed the airport with an activation date of April 1942. Selectmen Tracy never obtained the required special permit to operate.
- 8) In 1941 Robert Vroom came to the airport with his Lufbery Flying School. Berkshire School operated the "Education with Wings Program" in conjunction with Lufbery Flying School.
- 9) In 1945 Selectmen Tracy sold to Charles Sharp and Walter J. Koladza.
- 10) In 1946 Charles Sharp sold to Walt and Berkshire Aviation Enterprise was formed. Walt also never obtained the required special permit to operate.
- 11) The airport has not been in continual use as claimed and was privately used for years and was used as a **Flight School** until 4/1942 when activated by Selectmen James F. Tracy.
- 12) See attached 1956 Attorney General approved Gt. Barr. Zoning Map showing the only business on the Egremont Plain Road as Agar Fuel.
- 13) The airport is not and the key word is "legally" preexisting non conforming" they are illegal, an illegal piece of an airport that never got and can not get "legally" permitted and that is the crux of the matter. Please do not continue to violate my rights in total absolute disregard of me, my political struggle, and my extensive documentation.
- 14) Mr. Cooke at the hearing requested the benefits of the proposal to the Town, stating this would help his decision. I would hope my 28 page affidavit, no deed for this parcel and how many people it will affect that have no idea of what is about to hit them would take precedent.

Thank you, Claudia Shapiro Aug. 19th 2020

Claudia Shapiro Aug 19th 2020
1



GREAT BARRINGTON ZONING MAP (REVISION OF ORIGINAL MAP)

-  SINGLE FAMILY
-  GENERAL RESIDENCE
-  BUSINESS
-  LIGHT INDUSTRY

SECTION
10

ZONING BY-LAWS

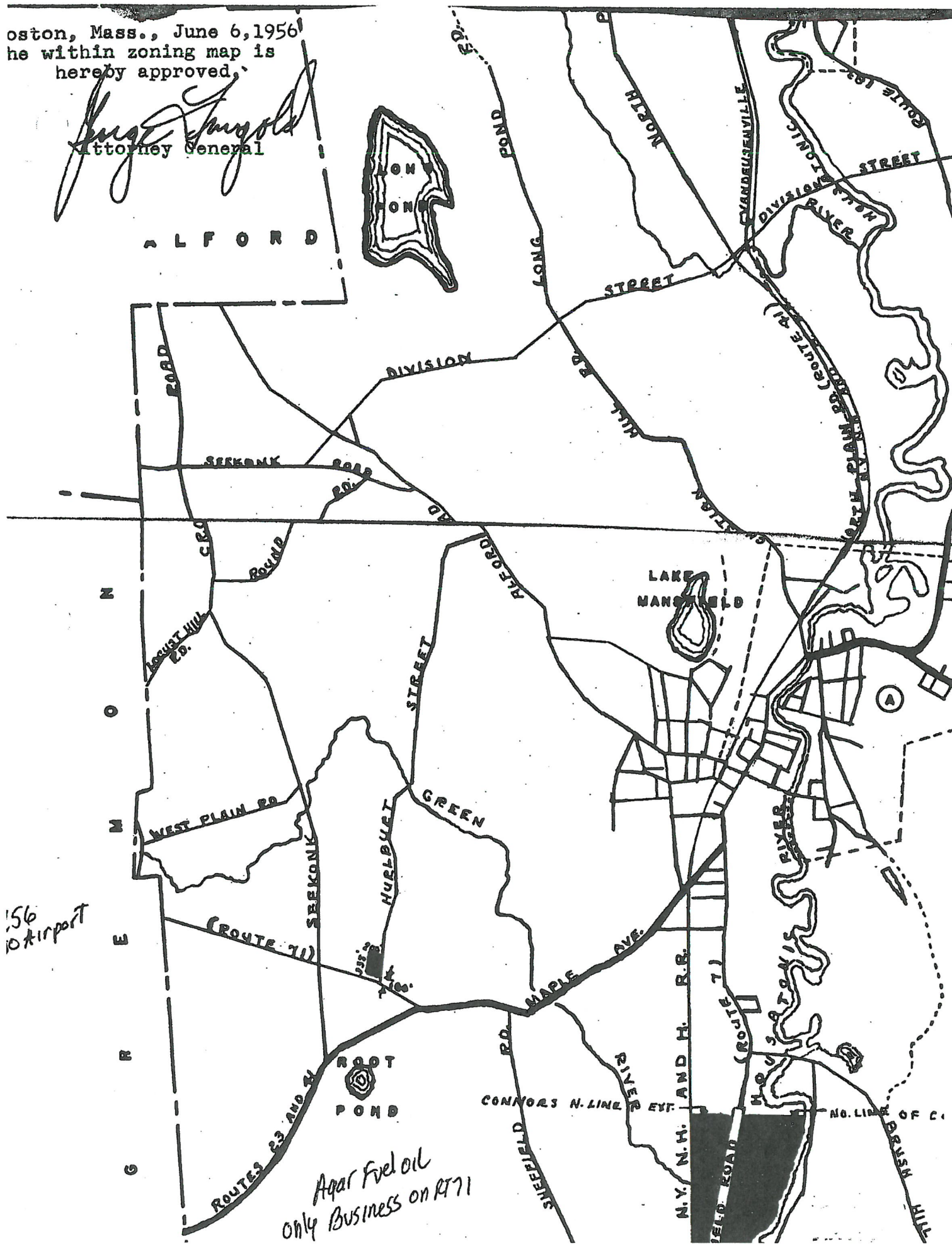
5000 SQ. FT. APPLIES
WITHIN AREAS BOUNDED
BY BROKEN LINES



oston, Mass., June 6, 1956
he within zoning map is
hereby approved.

[Signature]
Attorney General

ALFORD



156
to Airport

Agar Fuel oil
only Business on RT 71

