

**SELECTBOARD'S MEETING AGENDA**

**MONDAY, SEPTEMBER 24, 2018**

**6:30 PM EXECUTIVE SESSION JOINT MEETING WITH THE ZBA**

**7:00 PM – REGULAR SESSION**

**TOWN HALL, 334 MAIN STREET**

**ORDER OF AGENDA**

**PRESENT**

**Selectboard Members**

Ed Abrahams  
Dan Bailly  
Steve Bannon  
Kate Burke

**Town Planner**

Chris Rembold

**ABSENT**

Bill Cooke  
Jennifer Tabakin

**ZBA Members**

Carolyn Ivory  
Steve McAlister  
John Katz  
Madonna Meagher  
Michael Wise  
Don Hagberg Associate member  
John Katz Associate member

**ABSENT**

Ron Majdalany

**6:30 PM - OPEN MEETING**

1. **CALL TO ORDER:** S. Bannon called the meeting to order at 6:31PM.

**CONVENE INTO EXECUTIVE SESSION and Return to Open Session** - Town Manager's Conference Room

**MOTION:** E. Abrahams motions to move into Executive Session.

**SECOND:** D. Bailly

**Roll Call Vote:** 4-0 (Abrahams-Yes, Bailly-Yes, Bannon-Yes, Burke-Yes)

**ZBA Roll Call Vote:** 5-0 (Ivory-Yes, Katz-Yes, McAlister-Yes, Meagher-Yes, Wise-Yes)

**7:00 PM - OPEN MEETING**

1. **CALL TO ORDER:** S. Bannon called the meeting to order at 7:00PM

## 2. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS:

A. General Comments by the Board: None

## 3. TOWN MANAGER'S REPORT:

J. Tabakin was absent, report will be given at next meeting.

## 4. PUBLIC HEARINGS:

A. Special Permit application of Great Barrington Real Estate LLC, c/o Nicholas Arienti, Hellman Shearn and Arienti LLP, to modify the existing Special Permit 538-96, at 300 Stockbridge Road, Great Barrington, MA, in accordance with Sections 3.1.4 C(11), 6.1.9, 7.12, and 10.4 of the Great Barrington Zoning Bylaw. Modification is requested in order to allow retail use of an area at the rear (east side) of the building that is currently designated for parking. (Discussion/Vote)

a. Open Public Hearing

**MOTION:** E. Abrahams made the motion to open the Public Hearing.

**SECOND:** D. Bailly

b. Explanation of Project

**(Present:** Attorney Nicholas Arienti of Firm Hellman Shearn & Arienti, David Wright from Paragon Management Corp (plaza Owner), David Gagnon of Langan Engineering, Jeff Stiles, Store Manager of Tractor Supply Co, Pittsfield)

-N. Arienti presented the request to modify 1996 Special Permit 538-96 to allow Tractor Supply to use a portion of the unused, "overflow parking" area to be utilized by Tractor Supply for an 8943 sq. ft. fenced area for storage and outdoor supply.

- Visuals of the Project were included and submitted to the Board along with a list of common items to be stored in the fenced area, including but not limited to: fencing, mowers, and large scale water containers.

- Original 1996 Permit 538-96 declared some of the parking space in question should be zoned as such, designated as backup spaces to be constructed if necessary. This has not happened, and so Applicant is requesting the aforementioned change to the space.

- N. Arienti noted that this request does not affect the present parking in the plaza. There would be no reduction in spaces that are presently used. 534 spaces remain if the area in question is modified as requested.

- **Social Impact:** The site has been empty since Kmart left in 2016. Tractor Supply would give the benefit of a fully leased space, restored to beneficial use.

- **Retail Opportunities:** Tractor Supply would allow access to goods at affordable prices. Local employment opportunities would increase.

- There would be little to no impact on traffic flow, as the plaza is already established.

- There is no construction taking place, therefore no environmental impact.

- **Fiscal Impact:** Employment of 5-7 full time associates. No additional services from the Town will be required. Tractor Supply will spend approximately \$1M to

update the building as needed, and estimate an annual profit of \$323,000 with a 3% annual inflation.

**Q&A:**

- E. Abrahams asked for clarification on paved areas. The 28 spaces in question are already paved, giving ease to trucks driving through. No additional paving will take place unless required by the Town in the presently unpaved areas.

- N. Arienti noted that the fence is 8ft chain link, locked, and inaccessible to customers from the outside. Gates are for delivery only. Lighting for safety will be on from dusk to dawn, and will be LED with no spillover to surrounding areas.

- K. Burke expressed concerns over Holidays, Specifically Thanksgiving and Christmas Eves, when there is increased traffic and spillover into back lots does consistently occur. How can pedestrian safety be ensured with truck deliveries taking place in the back lot? Jeff Stiles, Manager of Pittsfield Tractor Supply Store, responded that large scale deliveries are typically Monday through Friday, 9AM-5PM, and 18-wheeler deliveries are not everyday events. N. Arienti noted that a condition could be added and met that declares deliveries not be scheduled around the Holidays. If it shows that more parking is necessary, it could be added, and any safety issues can be addressed by the Town as needed.

c. Speak in Favor/Opposition: No public comments

d. Motion to Close Public Hearing

**MOTION:** E. Abrahams

**SECOND:** Dan Bailly

**VOTE:** 4-0

**EXHIBIT A**

**FINDINGS OF FACT AND BASIS FOR DECISION**

**Re: Special Permit #881-18**  
**Applicant(s): Great Barrington Real Estate, LLC**

**A. Introduction**

This Special Permit application was filed on August 23, 2018 by Great Barrington Real Estate, LLC (Owner), for the property located at 300 Stockbridge Road. The application seeks permission from the Selectboard to modify previously granted special permit, SP 538-96, in order to reduce the number of required parking spaces, so that a portion of the parking area to the east of the building can be used for outdoor retail space. The application has been filed in accordance with Sections 3.1.4 C(11), 6.1.9, 7.12, and 10.4 of the Zoning Bylaw.

The Applicant is represented by Attorney C. Nicholas Arienti of the law firm Hellman Shearn & Arienti LLP. The special permit application includes: an application to the Planning Board for Site Plan Review; a summary letter from the Attorney; site plans drawn to scale indicated location of buildings, parking spaces, and the proposed outdoor retail area; and a time-series of satellite images of the property.

**B. General Findings**



The property is located primarily in an I (Industrial) zoning district on Stockbridge Road (Route 7), between Cooper Road and Crissey Road. The property consists of a large retail plaza, totaling approximately 136,000 square feet of building area, as well as parking lots in the front and rear (to the east and south) of the buildings. The existing retail plaza use was permitted, and the appearance of some of the plaza was altered, in accordance with previously granted special permits, including SP 538-96, which set certain design requirements on the façade of the Kmart building. Traffic to and from the plaza is controlled by a traffic signal at the entrance on Stockbridge Road.

This application pertains to the parking requirements imposed by Special Permit 538-96. If the shopping center were to meet the letter of the parking requirements of the zoning bylaw, it would have to provide 680 parking spaces. In actuality, under the authority Special Permit 538-96, there are far fewer spaces on site (see below) since that special permit allowed that only a certain number of spaces be built, and that other possible parking areas be “reserved” in case additional parking was deemed to be needed. This current Special Permit application proposes to further reduce, by 105, the number of parking spaces.

Per Special Permit 538-96, there are 376 spaces of parking striped (painted) as parking stalls on the site, with 306 being on the north side, in the main customer area, and 70 on the south side, primarily used by plaza employees. On the east side, behind what was formerly Kmart and is now Marshalls and proposed Tractor Supply Co., there is additional paved area. This area is not striped, but it is sufficient for 77 parking spaces; these are so-called “paper spaces.”

Further, per Special Permit 538-96, an additional 158 spaces were drawn into the approved plans for the east side of the site, and shown as “reserved,” to be constructed if parking demand warranted. See plan at Exhibit 3 of the current Application. These spaces were never built and remain in “reserve.”

This Application proposes to construct an outdoor retail area of 8,943 square feet to the east of the building but within the paved area in which the 77 “paper spaces” are located, thus removing those 77 spaces from the overall parking count. Additionally, since the outdoor retail area will impact the turning movements of tractor trailers as they deliver inventory to the backs of the plaza’s stores, 28 of the “reserve spaces” also will be removed from the parking count. This is summarized in Table 1, below:

Table 1: Existing and Proposed Parking Spaces at 300 Stockbridge Road

Parking Area	Existing spaces per SP 538-96	Proposed spaces SP 881-18	Change
north side, customers	306	306	0
<u>south side, employees</u>	<u>70</u>	<u>70</u>	<u>0</u>
subtotal, striped spaces	376	376	0
paper spaces	77	0	-77
reserve area A	62	34	-28
<u>reserve area B</u>	<u>124</u>	<u>124</u>	<u>0</u>
subtotal, reserve spaces	263	158	-105
total parking spaces	639	534	-105

The Application has demonstrated through the aerial photography and other submittals that none of the 77 “paper spaces” and none of the reserve areas are actually utilized for parking, and that the parking takes place almost exclusively in the 376 striped spaces. In the proposed scenario, the 376 will remain in place, and an addition 158 “reserve” spaces will also remain, and could be built if parking demand warrants.

There is no proposed change of use, no proposed increase in overall size, and no increase in parking demand or traffic generation. Furthermore, there are no known existing site problems that warrant revisiting the site circulation, lighting, landscaping, or stormwater plans.

§§7.9 and 7.12 of the Zoning Bylaw set forth certain submittal requirements for new high impact commercial uses and large scale commercial uses. This application is not establishing a new high impact or large scale commercial use; therefore, these sections of the bylaw do not strictly apply to this proposal.

The Conservation Commission concluded they have no jurisdiction over the request, but noted that if any of the reserve spaces in area B were to be constructed, a wetlands delineation and Notice of Intent may be required. The Board of Health reviewed it, but since there was no jurisdiction, did not comment. The Planning Board made a positive recommendation on the proposal, and a positive finding per Section 6.1.9 that the site should be permitted to deviate from the zoning bylaw and provide only 376 actual spaces and reserve only 158 spaces. The Planning Board also approved the Site Plan application.

#### C. Special Permit Criteria and Findings

§10.4.2 of the Zoning Bylaw, granting of a special permit, requires a written determination by the Special Permit Granting Authority “that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.” This determination shall include consideration of the following six criteria:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and,
6. Potential fiscal impact, including impact on town services, tax base, and employment.

Consideration of the Criteria in relation to SP #881-18:

Per §10.4.2 of the Zoning Bylaw, granting of any special permit requires a determination by the Special Permit Granting Authority “that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.” The six criteria and the Board’s considerations in relation each are detailed below:

1. Social, economic, or community needs which are served by the proposal.
  - Grant of this application will allow the shopping center to return to its full occupancy, thereby providing additional employment and opportunities to fulfil the retail needs of the community. The proposal is in keeping with the vision and goals of the Master Plan in that it helps retain taxable real estate in

developed locations, provides for a variety of business and employment opportunities, and helps maintain Stockbridge Road as a commercial corridor.

2. Traffic flow and safety, including parking and loading.
  - The proposed flow of customer traffic and parking remains substantially unchanged from the present condition, under which there are no known problems. The proposal will change the circulation of tractor trailers to the rear of the site and will reduce the number of extra parking spaces. The Selectboard concurs with the Planning Board and finds there will be no issues presented by the proposed reduction and that there will be no detrimental impacts to traffic safety including parking and loading.
3. Adequacy of utilities and other public services.
  - The use already exists. There are no existing concerns in this regard, and there are no proposed changes.
4. Neighborhood character and social structures.
  - There will be little to no change to the existing conditions and there are no concerns in this regard.
5. Impacts on the natural environment.
  - There will be little to no change to the existing conditions and there are no concerns in this regard.
6. Potential fiscal impact, including impact on town services, tax base, and employment.
  - The fiscal impact will be positive. It will allow for the renovation of the interior of the existing retail space, thereby increasing the value of the real and personal property at the site, and increasing employment opportunities.

Finding:

In consideration of the above Findings, this Selectboard finds that the overall benefits of the proposal outweigh any possible detrimental impacts.

D. Proposed Conditions

1. None.

e. Motion re: Findings:

**MOTION:** E. Abrahams moved to approve the Findings of Fact for Special Permit #881-18, as *submitted* and referenced as Exhibit A.

**SECOND:** D. Bailly

**VOTE:** 4-0

**VOTE ON SPECIAL PERMIT**

**MOTION:** E. Abrahams moved to approve, in view of the approved Findings of Fact, Special Permit #881-18 for Great Barrington Real Estate LLC, the modification of existing Special Permit 538-96, for 300 Stockbridge Road, Great Barrington, in accordance with Sections 3.1.4 C(11), 6.1.9, 7.12, and 10.4 of the Great Barrington Zoning Bylaw, thereby allowing 8,943 square feet of outdoor retail space as proposed, and the removal of 105 unused parking spaces (77 paper spaces and 28 from reserve area A) from the total parking count, as proposed,

leaving a total of 376 actual parking spaces, and 158 spaces (34 in reserve area A and 124 in reserve area B) in reserve to be used if needed.

**SECOND:** D. Bailly

**VOTE:** 4-0

f. Motion re: Approval/Denial/Table

**MOTION:** E. Abrahams

**SECOND:** D. Bailly

**VOTE:** 4-0

## **5. LICENSES OR PERMITS:**

A. John Bevan/Clarion Concerts in Columbia County, Inc. for Two (2) One Day Beer and Wine Liquor Licenses for 9/29/18 and 10/13/18 from 5:00 pm – 9:00 pm at St. James Place, 352 Main Street. (Discussion/Vote)

**MOTION:** E. Abrahams

**SECOND:** D. Bailly

**VOTE:** 4-0

## **6. OLD BUSINESS:**

A. W.E.B DuBois Presentation – E. Abrahams wants to increase the number of committee members from 7 to 12, and noted that 4 of the proposed 12 are not residents of Great Barrington.

**MOTION:** E. Abrahams moved to increase the number of committee members from 7 to 12 and to appoint the following:

**SECOND:** D. Bailly

**VOTE:** 4-0

- SB – Appointments of the W.E.B. DuBois Legacy Committee. (Discussion/Vote)

Proposed Appointments:

Randy Weinstein

Emily Devote

Justin Jackson

Reginald Leonard

Stephanie Wright

David Magadini

Leah Reed

Ray Gunn

Julie Fagan

Barbara Dean

Gwendolyn VanSant

Freke Vuijst

B. SB – **Continuation** – Discussion of Town Meeting/Election Calendar 2019.  
(Discussion/Vote)

- Town Moderator Mike Wise noted that only two residents attended the previous meeting.

E. Abrahams added that the questions asked are usually repeated at the Town Meeting. We will remove the mini meeting from the 2019 Calendar, and add it at a later date if deemed necessary.

**MOTION:** E. Abrahams

**SECOND:** D. Bailly

**VOTE:** 4-0

## **7. NEW BUSINESS:**

A. Steven Silverstein/Commonwealth Cultivation, Inc. Represented by Sasha Bacca – Request to Change the Name of the corporation to Green Railroad Group, Inc. (Discussion/Vote)

- Petition to extend the initial agreement with the new name – new paperwork was submitted. All people remain the same as originally submitted for the Commonwealth Cultivation.

**MOTION:** E. Abrahams

**SECOND:** D. Bailly

**VOTE:** 4-0

**B. SB – Review of Town’s CPA Applications. (Discussion/Vote)**

**- C. Rembold**

a. Step 1 applications are due to his office by 4:00PM on October 1, 2018. Step 1 will determine if the project meets statutes. If so, Step 2 will be due by November 4<sup>th</sup>, 2018. This includes the meat of the proposal, budget, outline, people involved, and adherence to town plans. These proposals are open to the Town, Individuals, Non-Profits, etc.

**Currently in Process or Anticipated:**

**- Housing Trust Fund**

1. Down Payment Assistance Program Funding – currently doing this and would like to continue.
  2. Acquisition Funding to rehab a home that the Town has took for back taxes
  3. Acquisition Funding to acquire other properties that may become available for affordable housing opportunities
  4. Large undeveloped parcel off North Plain Road in Housatonic that could be utilized.
- Public Works and Planning likely to submit large application to complete Greenway Trail from the Brewery to CHP. Engineering and permitting funding was received for this last year. It is underway, and they would like to move forward and secure construction funding.
- Historic Property Research looking for funding to complete an inventory.
- Town Parks & Rec. Commission looking into retrofitting bathroom in Town Hall to make it accessible to the Public after hours.
- Library Trustees may be applying.
- Greyhouse Partners may be applying for the Housatonic School, specifically to be sure outside envelope of the School is sound.

**8. CITIZEN SPEAK TIME:**

a. Patrick Fennell, Great Barrington: Why doesn’t the Selectboard do the Pledge of Allegiance, and when will we recognize Frederick Deland, Civil War Medal of Honor recipient, buried in the Mahaiwe Cemetery.

S. Bannon responds that the Pledge has never been done. He asked Mr. Fennell to contact him about honoring F. Deland.

b. Michael Andelman, 17 Blue Hill Rd. Great Barrington: Inquired about what was discussed in the Executive Session, and why/when will early morning ticketing of Roger Road trucks stop.

S. Bannon advised that there was an Executive Session prior to the Open Session, but details are currently confidential as the Court proceedings are still ongoing.

M. Andelman advised that the Citizens will be petitioning for a special meeting to purchase the land at Roger Road for \$298K.

M. Andelman invited all to attend the Great Barrington Cultural Council Meeting on Wednesday September 26 at 6:00PM. Members are needed.



**9. SELECTBOARD'S TIME:** Halloween Trick or Treat will be on October 31 from 5:30-7:30PM at houses with their lights on.

**10. MEDIA TIME:**

The Fire Department Operational Study has not yet been seen by the Selectboard. Meeting is scheduled for October 23 to discuss.

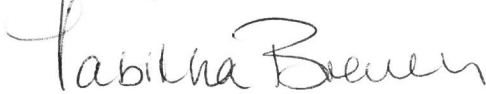
The Town is currently interviewing consulting firms for the Town Manager Search. This will be discussed on October 9<sup>th</sup>, at the Selectboard Meeting, if the recommended firm is available. This will be presented in Open Session, and voted on.

The W.E.B. DuBois Committee will have the new members sworn in by the Town Clerk. There is no budget for this committee. Names of those interested, but not selected will be passed along to the committee.

**11. ADJOURNMENT: 8:11PM**

On a motion by Ed Abrahams and seconded by Dan Bailly, the meeting was adjourned at 8:11pm.

Respectfully Submitted

A handwritten signature in cursive script that reads "Tabitha Brewer". The signature is written in dark ink and is positioned below the typed name.

Tabitha Brewer  
Recording Secretary