

Selectboard Regular Meeting via Zoom
Monday, February 14, 2022

1. CALL TO ORDER - Chairman Bannon opened the meeting at 6:00pm; those present via zoom: Ed Abrahams, Leigh Davis, Eric Gabriel, Garfield Reed. Town Manager Mark Pruhenski, Assistant Town Manager Chris Rembold.

2. APPROVAL OF MINUTES

- a. January 18, 2022
- b. January 31, 2022
- c. February 1, 2022-Joint Budget Meeting
- d. February 2, 2022-Joint Budget Meeting

3. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS

- a. E. Abrahams inquired about the scheduling of meetings of the Joint Housing Subcommittee. S. Bannon replied there is a request to disband, and he would look into it further.
- b. L. Davis announced and welcomed Mama Lo's BBQ restaurant opening March 4 at the Barrington House atrium and noted it was exciting to see a Black-owned business opening in GB.

4. TOWN MANAGER'S REPORT

- a. HWW – M. Pruhenski stated there was no update as the DEP has not yet issued an official Notice of Noncompliance, but when it does, it will be posted under the Selectboard, HWW tab on the Town website.
- b. Bill Ingram Retirement–WWTP Superintendent – M. Pruhenski announced Bill Ingram's retirement and expressed the Town's congratulations and thanks for his years of dedicated service.

5. LICENSES AND PERMITS

- a. Timothy and Janet Lee for a driveway permit at 10 Pothul Drive
L. Davis made a motion to grant a permit to Timothy and Janet Lee for a driveway at 10 Pothul Drive; E. Abrahams seconded. S. Bannon asked if any discussion – there was none. Roll call vote: E. Abrahams, "aye," S. Bannon, "aye," L. Davis, "aye," E. Gabriel, "aye." All in favor, 4-0.
- b. Barbara & Robert Watkins for a driveway permit at 38 Kalliste Hill Great Barrington
L. Davis made a motion to grant a permit to Barbara & Robert Watkins for a driveway at 38 Kalliste Hill Great Barrington; E. Abrahams seconded. S. Bannon asked if any discussion – there was none. Roll call vote: E. Abrahams, "aye," S. Bannon, "aye," L. Davis, "aye," E. Gabriel, "aye." All in favor, 4-0.
- c. Kevin Schmitz of the Marketplace Specialty Food Shop for an Annual Common Victualler at 265 Stockbridge Road
L. Davis made a motion to grant Kevin Schmitz of the Marketplace Specialty Food Shop an Annual Common Victualler at 265 Stockbridge Road; E. Abrahams seconded. S. Bannon asked if any discussion – there was none. Roll call vote: E. Abrahams, "aye," S. Bannon, "aye," L. Davis, "aye," E. Gabriel, "aye." All in favor, 4-0.

6. PUBLIC HEARINGS

- a. Jeffrey Neil, Manager for a new All Alcoholic Liquor License for Gruppo Ulmus, LLC d/b/a/ The Elm Railroad Street, 20 Railroad Street
L. Davis made a motion to open the public hearing for a new All Alcoholic Liquor License for Gruppo Ulmus, LLC d/b/a/ The Elm Railroad Street, 20 Railroad Street; E. Abrahams seconded Roll call vote: E. Abrahams, "aye," S. Bannon, "aye," L. Davis, "aye," E. Gabriel, "aye." All in favor, 4-0.

- i. Matt Mozian of Campoli, Monteleone & Mozian representing the applicant presented the request for a liquor license for a new restaurant - 20 Elm. The new owners purchased the assets of the former restaurant and have entered into a 5-year lease for the property. He stated Jeffrey Neil would be the manager of the license and described his and his partner's business management/restaurant experience and described the new restaurant as a casual restaurant and bar. J. Neil emphasized his interest in the community and the iconic property and commitment to high standards of cooking and service.
- ii. S. Bannon asked for any comment or questions.
- iii. Jim Manning, 304 Main Street, asked about pricing for the new restaurant – J. Neil replied it would be a la carte and would also have a bar menu.
- iv. L. Davis asked about staffing – J. Neil replied he is aware of the challenges, but has not yet started hiring.

L. Davis made a motion to close the public hearing; E. Abrahams seconded. Roll call vote: E. Abrahams, "aye," S. Bannon, "aye," L. Davis, "aye," E. Gabriel, "aye." All in favor, 4-0.

L. Davis made a motion to grant All Alcoholic Liquor License for Gruppo Ulmus, LLC d/b/a/ The Elm Railroad Street, 20 Railroad Street; E. Abrahams seconded. S. Bannon asked if any additional discussion – there was none. Roll call vote: E. Abrahams, "aye," S. Bannon, "aye," L. Davis, "aye," E. Gabriel, "aye." All in favor, 4-0.

- b. Kevin Schmitz, Manager for a new Wine and Malt package store licenses for the Great Barrington Marketplace Inc. d/b/a Marketplace Specialty Food Shop at 265 Stockbridge Road Great Barrington

L. Davis made a motion to open the public hearing for a new Wine and Malt package store licenses for the Great Barrington Marketplace Inc.; E. Abrahams seconded. Roll call vote: E. Abrahams, "aye," S. Bannon, "aye," L. Davis, "aye," E. Gabriel, "aye." All in favor, 4-0.

- i. Kevin Schmitz stated Marketplace is planning to sell more hot/to go food and would like to offer a small selection of wine and beer to go along with the food.
- S. Bannon asked for any public comments/questions.
- ii. L. Davis asked if the porch would be used for eating – K. Schmitz replied, not at this time.
- iii. E. Gabriel asked how many more liquor licenses are remaining – M. Pruhenski stated there would be one left if this is approved. K. Schmidt clarified that rent is not tied to revenue.

L. Davis made a motion to close the public hearing; E. Abrahams seconded. Roll call vote: E. Abrahams, "aye," S. Bannon, "aye," L. Davis, "aye," E. Gabriel, "aye." All in favor, 4-0.

7. PREVIOUS BUSINESS

- a. Annual Town Meeting calendar- SB to review May and June options. S. Bannon asked for input on holding the Town Meeting in May or June. Michael Wise and Jenn Messina stated they did not have a strong position either way. The Selectboard discussed weather concerns and the potential for holding the meeting indoors.

L. Davis made a motion to hold Town Meeting in June; E. Abrahams seconded. S. Bannon asked if any additional discussion and clarified the decision is about the date not whether to hold it indoors or outdoors. He stated further the date would be June 6 and June 9 if a second night is needed. Roll call vote: E. Abrahams, "aye," S. Bannon, "aye," L. Davis, "aye," E. Gabriel, "aye." All in favor, 4-0.

- i. J. Messina clarified the last day to register to vote for the Town election is April 20 and the last day to post a warrant for the Town election is May 3. She also stated the election will remain scheduled for May 10.

- b. Continued discussion on the proposed Short Term Rental bylaw. – C. Rembold led the discussion on the draft version of the bylaw starting with a cap on the total number of nights per year.

- i. L. Davis confirmed that the term "resident" was changed to "property owner" in the Purpose and Intent section.
- ii. S. Bannon stated Eric Gabriel is recused.

L. Davis made a motion Short-Term Rental shall not exceed in the aggregate 90 consecutive or nonconsecutive calendar days per year when the operator is not occupying the residential unit during the entire term of the short-term rental. S. Bannon asked if any discussion – E. Abrahams asked what purpose and objective the 90-day limit supports as it would not deter corporate interests - and seemed an arbitrary limit that would have unintended consequences including potentially not allowing homeowners to generate enough money to cover home upkeep expenses. He continued to suggest other ideas that target curbing corporate interests and speculators. Roll call vote: E. Abrahams, “no,” S. Bannon, “aye,” L. Davis, “aye,” G. Reed, “aye.” Motion passed, 4-1.

- iii. S. Bannon noted this bylaw needs to get to Town Meeting and the number of days would be a topic of significant discussion.
- iv. C. Rembold asked for input on multiple provisions regarding the number of rental parties at one time. L. Davis stated it should be limited to two persons per bedroom and a maximum of ten. She noted it is a safety issue that was raised in conversations with realtors. S. Bannon expressed concerns about this limit as overreaching and difficult to enforce. He also stated it cannot be a generic number as rooms are different sizes. L. Davis responded it is a guideline to prevent party houses and ensure safety as per the Bylaw’s stated purpose. E. Abrahams noted it is not a guideline, it is a regulation - and this is zoning related as neighborhoods are different. G. Reed expressed concern about overcrowding and safety. The Selectboard discussed other pathways to limit the numbers to protect health and safety and agreed to table the item pending additional information on how lodging establishments handle occupancy limits.
- v. The Selectboard agreed on the provision for rental of multiple dwellings on one parcel.
- vi. The Selectboard agreed on the provision precluding short-term rentals for commercial events and gatherings.
- vii. The Selectboard discussed on-site parking for short-term rentals and concluded this provision should be removed as parking regulations govern.
- viii. The Selectboard agreed on signage restrictions.
- ix. The Selectboard discussed the screening of trash/recycling and agreed it should be included.
- x. The Selectboard discussed the provision to preclude hourly rates focused on objections related to limits on holding business meetings in a business zone and support for it centered on concerns about illicit activities.

L. Davis made a motion to include provision 10 - renting for an hourly rate or for rental durations of fewer than ten consecutive hours shall be prohibited; G. Reed seconded. S. Bannon asked if any additional discussion – there was none. Roll call vote: E. Abrahams, “no,” S. Bannon, “no,” L. Davis, “aye,” G. Reed, “aye.” Motion failed 2-2. S. Bannon stated this may be something that can be revisited to find a compromise.

- xi. The Selectboard agreed to include the smoke and carbon monoxide alarms provision.
- xii. The Selectboard agreed to include the safety inspections provision.
- xiii. The Selectboard agreed to include the outstanding violations provision.
- ix. The Selectboard discussed violations and the timeframe to cure including scenarios where there are three violations in one inspection.

L. Davis made a motion to amend the provision from six months to one year; E. Abrahams seconded. S. Bannon asked if any additional discussion – G. Reed expressed concern about violations not being fixed within a reasonable time period. Roll call vote: E. Abrahams, “aye,” S. Bannon, “aye,” L. Davis, “aye,” G. Reed, “aye.” Motion passed 4-0. S. Bannon asked C. Rembold to rewrite the provision for more clarity.

- xv. The Selectboard agreed to include the provision on Compliance and Interaction with Other Laws.
- xvi. The Selectboard discussed Record Retention and agreed on a limit of three years.

- xvii. The Selectboard discussed the Notifications provision and concluded it was too extensive for signage and the Town would create an easy to read/understand template to be provided when the short-term rental was registered.
- xviii. S. Bannon stated the next discussion would start with Registration. L. Davis requested that the definition of “operator” and “owner” be discussed in the next session.

8. NEW BUSINESS

- a. Recommendation to the Planning Board on the application from Shay Alster, IS REAL TEAM, LLC, 21 South End Ave, New York, NY 10280, for a Special Permit to create a Rear Lot in an R-2 zone, at 183 Division Street, Great Barrington, in accordance with Sections 4.3 and 10.4 of the Zoning Bylaw.
 - i. C. Rembold introduced Heather Brown of Foresight Land Services representing the applicants. H. Brown stated this is a request to create a rear lot and that setbacks, frontage and the driveway meet all requirements. S. Bannon asked for comments – there were none. L. Davis made a motion to recommend to the Planning Board the application from Shay Alster, IS REAL TEAM, LLC, 21 South End Ave, New York, NY 10280, for a Special Permit to create a Rear Lot in an R-2 zone, at 183 Division Street, Great Barrington, in accordance with Sections 4.3 and 10.4 of the Zoning Bylaw; E. Abrahams seconded. S. Bannon asked if any discussion – E. Gabriel asked if the Town would have any responsibility related to the septic – H. Brown replied, no. Roll call vote: E. Abrahams, “aye,” S. Bannon, “aye,” L. Davis, “aye,” E. Gabriel, “aye.” All in favor, 4-0.
 - b. Referral of any proposed zoning amendments to the Planning Board for a public hearing. L. Davis made a motion to refer the proposed zoning amendments to the Planning Board for a public hearing; E. Abrahams seconded. S. Bannon asked if any discussion – there was none. Roll call vote: E. Abrahams, “aye,” S. Bannon, “aye,” L. Davis, “aye,” E. Gabriel, “aye,” G. Reed, “aye.” All in favor, 5-0.
 - c. Celebrating National Black History Month – Proclamation
L. Davis made a motion for a Proclamation Celebrating National Black History Month - Whereas, Black History Month is observed annually across the United States in February to celebrate African-American achievements, to recognize the crucial role they have played in U.S. history, and to honor the generations of black Americans who struggled through adversity to achieve full citizenship in our society; and Whereas, Black History Month grew out of the establishment, in 1926, of Negro History Week by Carter G. Woodson and the Association for the Study of African American Life and History; and Whereas, the 2022 national theme for the observance is “Black Health and Wellness”, takes a look at how American healthcare has often underserved the AfricanAmerican community; and Whereas, the observance of Black History Month calls our attention to the continued need to battle racism and build a society that lives up to its democratic ideals; and Whereas, the Town of Great Barrington continues to work toward becoming an inclusive community in which all citizens -past, present, and future- are respected and recognized for their contributions and potential contributions to our community, the state, the country, and the world; and Whereas, the Town of Great Barrington is proud to honor the history and contributions of African Americans in our community, throughout our state, and nation. Now, therefore be it resolved that the Selectboard of the Town of Great Barrington, do hereby encourage the citizens of Berkshire County to join us in celebrating National Black History Month. In witness thereof, we have hereunto set on this 14 day of February, 2022; E. Abrahams seconded. Roll call vote: E. Abrahams, “aye,” S. Bannon, “aye,” L. Davis, “aye,” E. Gabriel, “aye,” G. Reed, “aye.” All in favor, 5-0.
 - d. Selectboard meeting dates in March, discussion – The Selectboard set a new meeting date for March 30, 2022.

9. CITIZEN SPEAK TIME

- a. James Manning, 304 Main Street, stated he appreciates the Short-Term Rental Bylaw discussion and

- that well-written rules and prioritizing the community over individuals is necessary. He also noted there can be lodging aggregators renting rooms and homes on a large scale.
- b. James Garzon, 84 North Plain Road, thanked the Selectboard for the discussion and shared his research on the small number of corporate/LLC -owned properties noting the Bylaw should be more targeted instead of broadly impacting homeowners. He also noted reduced revenue to the Town and recent approvals for the development of affordable housing in GB over the next 2-5 years.
 - c. Frederica Sigel, 27 Round Hill Road, asked about the use of the word operator; what qualifies as a secondary unit; what rules are enforceable; reasonable grace period for fixing violations. She also asked the Selectboard to reconsider the number of days allowed for short-term renting before sending to Town Meeting; to align with the premise, purpose/intent of the Bylaw; and not limit the revenue that can be earned to by homeowners.
 - d. Sharon Gregory, 32 Hollenbeck Avenue, stated there should be balance for the interests of residents to guard against the purchase of properties for investment. She shared calculations for revenue generated based on the 90-day limit and noted it was sufficient. She stated the Bylaw is important to maintain a sense of community.
 - e. Dan Ruderman, \$ Knob Hill Road, stated there should not be businesses in residential neighborhoods – i.e., homes as hotels. He also noted to be a good neighbor, a house should be occupied by the owner and that short-term renters do not respect the property.
 - f. Amanda Hanlin-Hochler, 193 Maple Avenue, expressed concerns about limiting property rights and the large implications of the bylaw noting there are other ways to achieve housing goals. She also stated revenue from rentals helps cover the significant cost of maintaining an old house. A tax on short-term rentals or deed restrictions would be more helpful.
 - g. Michelle Loubert, 70 Division Street stated she would like to read her letter to the Selectboard - My husband and I own property at 70 Division St., my family's homestead. My father built the house in 1958, and here my father and mother raised eight children, all of whom attended Great Barrington's public schools. My father died in 2013. Upon my mother's death in 2017, she left the house to me. It was her desire and that of my late father that the house remain in the family and when the time came, left to their daughter. We are not a money-hungry corporation, nor are we wealthy investors or developers — the people Ms. Davis has referred to when speaking about this proposal. She has stated that this proposed bylaw will “deter” such people from buying up properties in Great Barrington and turning them into short-term rentals. However, not all property owners fall into this category — certainly not us! Because I have had little opportunity to travel, I would like to do so when I retire. My husband is from Michigan and often expresses a desire to retire to that state. My husband and I do not have large retirement accounts. In order to pursue our retirement dreams, we will need to supplement our retirement income. To do so, we thought we would rent our home as a short-term rental. This would not only provide income, but also provide us the freedom to visit the Berkshires when we want to without the necessity of working around a year-round tenant in the house. Best of all, we would not be forced to sell our home in order to retire comfortably and pursue our retirement plan. Unfortunately, the short-term-rental bylaw, as currently proposed, will negatively affect our retirement plans. The days we could rent, since we would not be living full-time at 70 Division St., would be limited, therefore the income generated from the rentals would also be limited. As stated above, renting to a year-round tenant would impede our ability to visit the area when we, the homeowner, choose to or allow family members to stay at the house. It seems to us that, in a way, this proposal will force some people to rent to a year-round tenant, since the only other options would be to leave the house empty or sell, neither which are attractive options for us. Ms. Davis stated several times that this is about the “greater good,” an argument that I have found often used when presenting a controversial proposal. However, I ask that Ms. Davis consider *all* of her constituents when advocating for this proposal because sometimes when promoting the “greater good,” people in the minority are harmed.

10. SELECTBOARD'S TIME

11. MEDIA TIME

12. ADJOURNMENT - Chairman Bannon adjourned the meeting by unanimous consent at 8:00pm.

Respectfully submitted,

Stacy Ostrow
Recording Clerk