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*Staff comments for the Board may appear in underlined italics in throughout the document.*

*Deliberations need not conclude in one meeting. The Board may take up to 90 days from the date it closed the Hearing to reach a decision and file the decision with the Town Clerk. A decision is therefore due not later than January 24, 2021.*

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## **EXHIBIT A: FINDINGS OF FACT**

**Re: Special Permit #909-20**  
**Applicant: Berkshire Aviation Enterprises, Inc.**  
**Site: 70 Egremont Plain Road**

### **A. Introduction**

The Special Permit application was filed on May 1, 2020 by Berkshire Aviation Enterprises, Inc. (“Applicant,” “Owner,” or, “Airport”) and seeks permission from the Town of Great Barrington Selectboard per Zoning Bylaw Sections 3.1.4 E(1), 7.2, and 10.4, to operate an Aviation Field in an R4 zone, at 70 Egremont Plain Road (the Site), as described in the application narrative and associated plans. The airport is commonly referred to as the Walter J. Koladza Airport or the Great Barrington Airport. The Site is also within a Zone II of the Water Quality Protection Overlay District (WQPOD), set forth in the Zoning Bylaw at Section 9.2.

In addition to seeking permission for an Aviation Field in this zone, the Airport’s proposal, as submitted to the Selectboard, includes a proposal to construct six new hangars north of the existing runway, as accessory buildings for principal permitted Aviation Field use. Five of the proposed hangars are 50 feet wide by 147 feet long, each, for a total of 7,350 square feet each, and one of the hangars is 60 feet wide by 125 feet long, for a total of 7,500 square feet. The six hangars combined will total which equals a total of 44,250 square feet of new building area. No other new structures are proposed. Associated with the hangars is the addition of new paved areas including driveways and airplane taxiways, with some gravel parking spaces near the new hangars, as well as associated stormwater management controls in the form of swales and shallow infiltration basins. As shown on the plans, a new driveway to the proposed hangars would be created from Seekonk Cross Road, and run westerly across the field to the hangar site.

The Application materials, under cover letter dated April 20, 2020 from James Scalise, PE, of SK Design Group, Inc. (SKDG), included a narrative description of the airport history, operations, and applicable zoning requirements. The narrative also includes the Applicant’s response to applicable zoning requirements including Special Permit and Site Plan Review criteria of Sections 10.4 and 10.5, respectively. It also includes photometric lighting plan of the proposed lighting at the hangars and technical details of the proposed lighting fixtures, a Stormwater Report, dated March 2020 and prepared by SKDG, and a six-sheet set of engineering plans prepared by SKDG showing existing and proposed conditions in the area of the proposed hangar construction. The set of plans includes a scaled plot plan with dimensions, signed Mr. Scalise, a licensed engineer, depicting the features of the property.

The Application states that the site has in continuous use as an airport since the 1920s, the first hangar was erected in the early 1930s, and Great Barrington enacted its first zoning regulations in 1932. The Applicant states that the airport is a preexisting nonconforming use.

The applicant filed a supplemental packet dated August 18, 2020, in response to Planning Board questions. It includes a cover letter from Mr. Scalise to the Planning Board, supplemental material to respond to the “Long Form” Special Permit application, and 9 attachments including traffic information, lighting, viewshed depictions of the proposed hangars, plans and elevations of the proposed hangars, cut and fill volumes associated with the hangar development, and other information requested by the Planning Board. This packet was submitted to both the Selectboard and the Planning Board.

Subsequent letters from the Applicant’s Attorney, Dennis Egan of Cohen Kinne Valicenti Cook, dated August 21, September 18, and October 1, provide more information about the application, provide information about the proposal’s projected impacts, and they respond to questions posed by the Selectboard and by parties in opposition during sessions of the Public Hearing.

Other relevant materials, submitted by parties other than the Applicant, include a September 29, 2020 email from Denise J. Garcia, Director of Aviation Planning at the Mass DOT Aeronautics Division, to Great Barrington Assistant Town Manager Christopher Rembold, responding to seven questions posed by Mr. Rembold relating to the Town’s authority to regulate certain aspects of aviation uses, and an October 2, 2020 Memorandum from Great Barrington Town Counsel David Doneski of KP Law regarding the applicability of Sections 7.2 and 9.2 to the Application.

All written correspondence from parties in support and parties in opposition received by the Selectboard before the close of the public hearing are incorporated into the record of proceedings for this special permit.

In general, supporters of the proposal expressed their support of the airport as an important component of the area economy and a use that provides important services such as the flight school and emergency services use, and that hangars would both protect the planes stored onsite and provide essential revenue for the airport to continue its operations.

In general, opponents of the proposal, expressed concerns that the airport currently detracts from the rural residential character of the area, particularly when it is used by military helicopters, and threatens the natural environment of the Green River and the Town’s drinking water quality. Some opponents expressed concern about the safety of vehicles on roads adjacent to the airport runways, concern that permitting the use under zoning would lead to other activities at the site, or even a physical expansion of the airport and its operations, which in their opinion would be additionally detrimental to the neighborhood.

The following comments from reviewing boards and commissions were received:

The Conservation Agent responded via a voice message on July 22 to the Applicant that the project was outside of jurisdictional areas.

The Board of Health found it had no jurisdictional concerns but suggested periodic lead testing of the soil on the property particular near the River and the hangars.

The Planning Board made a positive recommendation on the special permit for the aviation use, while recommending the Selectboard require documentation about the Airport’s use and handling of hazardous

materials, and if it grants the special permit, to consider limitations on the overall air traffic volume and types of aircraft.

## **B. General Findings**

Site Characteristics: The site is situated in an R4 zone on Egremont Plain Road and Seekonk Cross Road. It is bordered by these two roads, the Green River, and several residential properties. The site is also in a Zone II of the Water Quality Protection Overlay District. Land uses surrounding the airport are primarily single family residential and agricultural, as well as a private school located on West Plain Road. The character of the area is decidedly rural residential/agricultural, and this character is buttressed by the fact that some of the airport land itself is utilized for agriculture. However, the airport has existed at this site since the early 1930s, and over the past 90 years it has also become a part of the neighborhood character.

The airport site consists of various developed areas such as the runways, taxiways and parking lots, as well as existing buildings including the office or “terminal” and four hangar buildings (labelled on the site plans as existing hangar or existing building). Total impervious area, that is, area that is paved or covered with a building, as presented in August 18 supplement, is 325,416 square feet, or 8% of the 91.3 acre site. The balance of the site is wooded, lawn, or crop land. Other facilities on the site include the gas pumps, a self-service pump dispensing leaded aviation gas for airplane use. Proposed new impervious area is 153,010 square feet, bringing the total to 478,426 square feet, or 12% of the 91.3 acre site.

The length of the main paved runway is 2,572 linear feet. The Airport does not own, and, according to the September 29 correspondence from MassDOT, it is not required to own, any additional land on either end of the runway for purposes of a “runway safety area.”

A portion of the Airport property is enrolled in the Chapter 61A program, providing for a reduced tax payment on those portions of the property in agricultural use. The Town’s Assessors’ records indicate that 52.6 acres are in agricultural use. However, there is no map on file with the Town showing how much of the property, and which specific areas, are in agricultural use. It is reasonably clear that the proposed new hangars and access road would cause Chapter 61A land to be converted to a commercial use.

Airport Uses: Proposed use of the site is for aviation in keeping with the current use. With the exception of the proposed hangar buildings, proposed to be located on the interior of the site far from adjacent residences, the Applicant does not propose to alter the character of the site, nor does it seek to substantially expand the airport use or operations. The current use of the site for aviation purposes consists of activities normally associated with an aviation field, including the following:

1. Aircraft operations and types:

There is no definitive record of how many flights occur at the Airport. The Airport itself does not systematically track daily operations, and numbers that are provided from the different sources vary widely. They are neither consistent nor reliable. According to MassDOT data, compiled in the MassDOT 2010 airport systems plan, there were 29,810 total operations (an operation is one takeoff or one landing) in 2008, for an average of 82 per day. The Mass DOT plan states the projected operations by 2020 are 39,603 annual operations, or an average of 109 per day. Information for the 12 month period ending August 28, 2019 on available on [www.airnav.com](http://www.airnav.com) indicates and average of 48 operations per day. In a September 18 letter, Applicant’s attorney states there are 10-15 takeoffs on weekdays, and 30-35 on weekends, depending on the weather.

The type of aircraft using the site is mostly fixed wing single engine aircraft, with some helicopter and two engine craft. The runway is too short for jet aircraft.

The Airport is used as needed by emergency medevac helicopters (e.g., Life Flight) to transport patients out of the area to other hospitals.

The Airport is also used by US military helicopters training for night maneuvers. There is no formal agreement for this and it has been happening since before the current Airport owners took ownership. The airport is open to limits on these activities, which cause significant disruption to the neighborhood, and usually at night.

The Applicant has stated that airport growth, measured in operations and in based aircraft, is very slow or flat, and it is not projected to increase significantly even with the new hangars.

2. Aircraft storage and parking:

Applicant states the actual count as of July 2020 was 48. [www.airnav.com](http://www.airnav.com) states there are 44 based aircraft, and MassDOT projects 51 aircraft (in 2015).

Storage is both indoors and outside. Indoor storage is preferred by many aircraft owners since it provides security and protection from the weather for the aircraft, which are often expensive. Indoor storage also provides more rental income to the Airport than outdoor storage. According to data submitted by the Applicant, there are 30 tie-downs available on the airport grounds, with 25 in use, and theoretically many more tie downs could be created on the grounds. Applicant states there are 23 aircraft in hangars, tightly parked.

Applicant proposes to add six hangars which would accommodate 33 planes, total. Some of those existing outdoor and indoor craft would use the proposed new hangars. The Application specifically states that the proposal is to convert grass aircraft parking to indoor hangar parking.

3. Aircraft maintenance and fueling:

The Airport employs mechanics and conducts maintenance of aircraft in the existing maintenance hangars. It stores oil, solvents and other potentially hazardous materials in accordance with appropriate standards which have been approved by the Fire Department.

Airplanes refuel at the Airport via on-site, self-serve pumps dispensing unleaded and leaded fuel. The fuel is stored underground in a recently upgraded double-wall tank. The replacement underground storage tanks for the aviation fuel was completed in conformance with the requirements of the WQPOD (9.2.11, 2). The unleaded fuel was added at that time.

While leaded airplane fuel does pollute the air, there is no evidence that the leaded fuel has polluted or is a threat to the public water supply managed by the Great Barrington Fire District. Nor, based on soil tests, is there evidence that the airport grounds are contaminated.

The August 18, 2020 supplement provides a description of hazardous materials from planes and the maintenance shop. It states that the shop has a 55-gallon drum for used oil, and that the new

hangars will have barrels to collect waste or contaminated fuel.

4. Airport office:

The existing office building houses the flight school and administrative functions. A private well and septic system serve the office uses. The building dates from approximately 1950. It is a nonconforming structure due to a nonconforming front yard setback from Egremont Plain Road.

5. Other:

The Airport has been used for annual “fly-in” events and other one-day temporary special community events, with the prior approval of the Selectboard. Additional facilities such as portable toilets are provided in these instances to serve the attendees.

The Applicant has stated that uses not permitted in the R4 zoning district are not permitted at this site. And “event venue” is not a permitted use in the R4 district.

Traffic: There are no current concerns related to traffic safety or congestion, or traffic impacts caused by the Airport, with the exception of some overflow parking near the office/terminal building during special events. Access to the proposed hangars would be via a new driveway from Seekonk Cross Road. Existing vehicle traffic to the airport is relatively low and the proposed hangars are projected to add 1 to 2 cars per hour on a typical day. This is based on data compiled for the Town by the Berkshire Regional Planning Commission (BRPC) in 2010 and 2014.

Utilities: The Airport is served by an existing private well for drinking water and an existing septic system for sewage disposal. There are no public health concerns caused by the on-site drinking water or waste disposal systems.

Stormwater: There are no stormwater concerns at the Airport. Material provided by the Applicant indicates the amount of existing and proposed impervious surfaces, soil types, etc. and indicates that the site will be able to infiltrate all stormwater that falls on the site. The Applicant stated that the Airport does not use salt or other material to deice the runways. The Application includes a stormwater study and stormwater management devices to control runoff near the proposed new hangars.

Groundwater: The 2003 Source Water Assessment and Protection (SWAP) Report for the Great Barrington Fire District lists the airport as a potential high threat to the water supply, as does the Master Plan. However, there are no known concerns of groundwater contamination caused by the airport use. The underground fuel tank has leak detection, and there have been no known leaks. There have been no known reportable spills from the gas pumps. The SWAP is discussed further, below.

Proposed New Hangars: As discussed above, six new hangar building are proposed to be located north of the runway, near the spot where the existing clamshell hangar is now located. The site plans showing the proposed location also show the size of the hangars and the extent of pavement and site disturbance necessary to construct and use the hangars.

Five of the proposed hangars are 50 feet wide by 147 feet long, each, for a total of 7,350 square feet each, and one of the hangars is 60 feet wide by 125 feet long, for a total of 7,500 square feet. The six hangars combined will total which equals a total of 44,250 square feet of new building area.

Associated with the hangars would be the addition of new paved areas including driveways and airplane taxiways, with some gravel parking spaces near the new hangars, as well as associated stormwater management controls in the form of swales and shallow infiltration basins. As shown on the plans, a new driveway to the proposed hangars would be created from Seekonk Cross Road, and run westerly across the field to the hangar site.

Proposed new impervious area (hangars and driveway areas) is 153,010 square feet, bringing the total impervious site coverage to 478,426 square feet, or 12% of the 91.3 acre site.

The new hangars will not be used for office use or aircraft maintenance. The hangars would have low level exterior lighting and interior lights.

The hangars may be allowed as an accessory use or structure to the principal use, in the event that the principal use is lawful (see Section 3.2.1 of the Zoning Bylaw.) In this case, the principal use is the subject of this Special Permit, and it is reasonable that the Selectboard consider any proposed new accessory structures during the Special Permit process; the location and impacts of the proposed hangars may be regulated as part and parcel of the overall Special Permit.

The proposed hangar location is outside of Natural Heritage and Endangered Species Program (NHESP) jurisdictional area and outside the 200-foot Riverfront area of the Green River. It is also within 500 feet of the Green River, which is listed in the Great Barrington Wetlands Regulations, at Section 217-14.1, as a resource area subject to protection under the local Wetlands Bylaw. A permit from the Conservation Commission would be required prior to hangar construction.

Water Quality Protection Overlay District: Section 9.2 of the Zoning Bylaw regulates uses in the WQPOD, and the site is in a Zone II regulated area. These regulations and their applicability are discussed in Section D., below.

### **C. Findings related to Section 7.2, Aviation Fields**

The Town has the authority regulate Aviation Fields as a land use under Section 7.2 of the zoning bylaw. The Town may not regulate activities that are under the jurisdiction of the FAA or MassDOT. (See the September 29 email from MassDOT).

Section 7.2 states, in part, “Any aviation field, public or private, with essential accessories, shall comply with the following special requirements: It 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.” As the airport is already an existing use, Town Counsel’s advice to the Board in his October 2, 2020 memo, is to apply this language not to the existing use but rather applied “to measure whether whatever is proposed to be added to the existing operation, such as the hangars, would result in the operation of the airport becoming more “objectionable” than at present.”

The Selectboard has heard through many written and oral comments that there the existing airport operations are objectionable because of noise. Many of these comments were from Great Barrington residents, but many of them do not live near the airport. It has also heard some comments that the noise is not objectionable. And finally, the Board has not heard from every abutter of the airport, only some. Presumably some neighbors do not find the noise objectionable.

The Board has heard some comments that the proposed hangars would be objectionable based on their location in the view shed, based on their industrial design and appearance, based on the proposed lighting, and based on their location within 500 feet of the Green River.

The Applicant has stated that airport growth is low, and that the new hangars will not increase this growth or add to the airport daily takeoffs and landings. Opponents do not agree with this statement, considering that more hangars will mean more planes, more take offs and landings, and more noise in addition to the already existing conditions.

The Selectboard finds there would be no new objectionable environmental from the new hangars. The hangars would improve environmental conditions by putting planes indoors, on concrete floors, without floor drains, and with proper stormwater and erosion controls. They would not lead to more objectionable environmental conditions, even accounting for a possible minor amount of fuel in barrels in the hangars, which could be prohibited by this Board in any case.

There are infrequent but dangerous plane-vehicle interactions at the end of the runway at Seekonk Cross Road, however. The hangars may increase, slightly, the traffic to the hangars and the number of planes operations, and this might increase the frequency of plane – vehicle interactions on Seekonk Cross Road. Unless air traffic is limited or safety measures are put in place, the Selectboard would find that the frequency of dangerous situations may be increased.

However, as to noise and daily operations, the Selectboard finds there is no way to measure the possible impact of the hangars on daily operations and resulting noise. Indeed, as stated previously, there is no definitive way to quantify what is occurring now, without the proposed hangars. Without more information, the Selectboard cannot arrive at a conclusion that would support the notion that the hangars will not lead to more objectionable conditions.

#### **D. Findings related to Section 9.2, WQPOD**

As stated previously, the Airport is a use that is listed as a high potential threat to the Town's public water supply. According to the 2003 Source Water Assessment Program Report for the Great Barrington Fire District water supply system (the SWAP report) "The overall ranking of susceptibility to contamination for the system is high, based on the presence of at least one high threat land use within the water supply protection areas, as seen in Table 2." In actuality, there are several uses, not just the Airport, listed as high threats, including manure, fertilizers, airports, body shops, and various underground storage tanks. In fact, the Airport use, including the existing fuel tanks and the hangars, are located further away from the public drinking water supply than other potential threats which include agricultural runoff (e.g., manure and pesticides), road salt, and underground home heating oil tanks.

Section 9.2.12 sets forth the uses and activities that require a WQPOD special permit. There are three items to this subsection:

1. Enlargement or alteration of existing uses that do not conform to the WQPOD;
2. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning district (except as prohibited hereunder). Such activities shall require a special permit to prevent contamination of groundwater;

3. Any use that will render impervious more than 15% of any lot or parcel or 2,500 square feet, whichever is greater.

Finding Relative to item 1: If the airport activities included any of the “Prohibited Uses” set forth in Section 9.2.8, then it would be a “use that does not conform” to the WQPOD. The airport does not consist of any of the *applicable* activities. For example, while there may be generation, treatment, or storage of hazardous waste, the airport is listed by MassDEP as a very small quantity generator, and this is specifically excepted. Also, while there is storage of liquid petroleum, it is stored in accordance with the WQPOD, and so this is also excepted. No other prohibited uses occur at the Airport. Therefore a Special Permit under item 1 is not required.

Finding Relative to item 2: As discussed previously, the Airport provides fuel for airplanes and maintenance, and potentially hazardous materials and petroleum products including unleaded and leaded fuel and solvents are stored on site, in quantities greater than those for normal household use. Adding hangars that may have even one more barrel of waste fuel or add more planes to the number of based aircraft, would therefore require a Special Permit under this item.

Finding Relative to item 3: As discussed previously, the current impervious coverage is 8%, and with the proposed new impervious area (hangars and driveway areas), the total will be 12% of the 91.3 acre site. These are the figures provided by the SKDG for the Applicant. The Town Planner, utilizing the muni mapper GIS software, has confirmed that the existing and proposed new will not total more than 15%. A Special Permit under item 3 is not required.

In summary, the Selectboard finds a WQPOD Special Permit is required to add the hangars because item 2 is triggered.

#### **E. Findings related to Section 10.4, Special Permits**

Section 10.4.2 of the Zoning Bylaw, criteria for the 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.

The Board’s considerations in relation each of these criteria are detailed below. These considerations include the existing airport operations as well as the proposed hangars.

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

Finding 1: The Airport serves the Town of Great Barrington and the regional area by providing employment for 12 employees, and a convenient and safe place for medical air evacuations and



disaster response. It provides convenient access to the Town and region for travelers from destinations across the country. Numerous letters in support of the existing airport and its flight school have been received by the Selectboard.

The Airport is an important component of the local and regional economic, transportation, and emergency network. The Airport conforms with those aspects of the Town's Master Plan that call for balancing rural living with the amenities of an urban community and which encourage economic flexibility, the retention and attraction of businesses, and the provision and maintenance of a strong transportation network.

All of the above benefits exists now, and the proposed hangars will not better serve these needs.

The Airport provides aircraft fueling, tie-down areas for aircraft parking, hangar storage, aircraft sales, aviation instruction, aircraft maintenance, charter flights, and sightseeing tours. The proposed new hangars are advantageous for the airport in that they will supplement the airport income, and will protect airplanes and related equipment.

Some of these uses are beneficial to the community at large in an intangible way, but the Board cannot make a solid determination in that regard. Certainly some of these activities, as well as the proposed hangars, benefit only the users and owners of the facility but not the community at large.

## **2. Traffic flow and safety, including parking and loading.**

Finding 2: The Airport is located at the corner of Egremont Plain Road and Seekonk Cross Road, which safely accommodate traffic to and from the Airport. The proposed hangars will add minimal traffic or safety concerns to the roadways.

There has been testimony and letters regarding the unsafe condition of planes using the eastern end of the runway at Seekonk Cross Road. The Board has heard that there have been near misses, but there have also been some documented collisions. The Board agrees this is not a safe condition, but it cannot relocate the runways or the roadways, nor does it have the authority to regulate the number or timing of airport takeoff and landing operations.

*What about safety on the airfield itself, with people crossing the runways from the hangars? Is that an issue for this Board?*

*If the Board believes the situation will not be exacerbated, and permit conditions could ensure safety, it could consider conditions.*

## **3. Adequacy of utilities and other public services.**

Finding 3: The utilities and services are adequate to serve the existing use as well as the proposed hangars.

## **4. Neighborhood character and social structures.**

Finding 4: The Airport has been in operation as an airfield since 1931. The Board notes it is not this Board's jurisdiction to determine whether or not the Airport is a preexisting nonconforming use—that would be a ZBA decision—evidence in the public record indicates that the use of this site as an

airport predates the Zoning Bylaw. If the ZBA found that it is a legally preexisting nonconforming use, then the use could continue in operation in its current manner, and in fact would have latitude to grow in an incremental manner without that growth being considered a change or expansion.

It is true that some residences in the area predate the Airport; it is equally true that other homes were built after the Airport began operations. The predominant character of the area is rural residential and agricultural, and the Airport is also an established part of the neighborhood, and has been acknowledged as such by supporters and opponents of this application. However the Selectboard finds that the airport is in a residential/agricultural zone; the residences and farms are not in an airport zone.

The proposed hangars are relatively large, compared to a typical single family home. But compared to a dairy barns in the area, or compared to large residences, also in the area, these are not necessarily out of place. Their placement, and arrangement, as shown in the Application, will be visible.

Will they present a significant new and objectionable views?

There is one smaller old hangar there now, and a clamshell hangar.

The hangars are not as high as the existing one. They won't prevent views of open ground, the sky, or distant mountains. But they they are also industrial type buildings, with lights, where there is one barn hangar and one clamshell now.

Based on testimony received during the public hearing, however, the Selectboard also finds that significant growth at the Airport beyond its current level of use and type of operations, including types of aircraft, could detract from the rural residential/agricultural character of the area. This would be in direct conflict with the Town's Master Plan, whose first "core initiative" is to protect the special places and features that contribute to Great Barrington's distinctive character. Furthermore, the Town's land use goals, as expressed in the Master Plan, do not envision this as a commercial or industrial area. The Master Plan specifically states, relative to the Airport, that "any activity, growth, or development here must be regulated to protect the town's water supply, and to ensure uses are compatible with residential and agricultural neighbors."

If the Board moves to grant a permit, a condition on the number of hangars, number of based aircraft, number and timing of operations including flight school, types of aircraft such as military helicopters, and future growth may be appropriate, notwithstanding the MassDOT's letter regarding what the Town can and cannot regulate.

## **5. Impacts on the natural environment.**

**Finding 5:** Although the Airport is within the WQPOD, the wellhead for the Town's drinking water supply provided by the Great Barrington Fire District Water Department is more than a mile away and is separated from the Airport by both Seekonk Cross Road and Hurlburt Road, and is on the opposite side of the Green River. The past and current use of leaded av-gas may contribute to background levels of air or water contamination; however, an acute harm to the local environment has not been demonstrated. On the contrary, soil lead tests at the airport show otherwise.

The location of the proposed hangars will impact some agricultural land, how much and how productive is not known. The hangars will disturb land within 500 feet of the Green River, an area

under the jurisdiction of the Conservation Commission per local wetland bylaws.

The hangars will presumably increase the number of planes, noise, and lights, all of which are more harmful than beneficial to the natural environment.

#### **6. Potential fiscal impact, including impact on town services, tax base, and employment.**

Finding 6: The Airport has a positive economic and fiscal impact in that it provides employment, some real estate taxes, and draws people to the area who support local and regional businesses. And the proposed new hangars will add to the tax base. The Town Assessor estimates that the new hangars would increase tax revenue by more than \$45,000 per year.

There are over 52 acres of airport land in the Chapter 61A program. For FY21, this Ch61A acreage was assessed at less than \$196 per acre and paid just over \$163 in real estate tax. If the land was not in Ch61A and assessed at 5,000 per acre, it would have paid over \$4,100 in real estate tax.

On the other hand, comments received by the Board indicate that residential property values will decrease if the airport is permitted and the new hangars are built. While this is speculative—there has been no evidence presented for these claims—it is not reasonable to assume that future buyers will not be as bothered by airport as current owners.

Building hangars and taking land out of Ch61A will increase tax revenue to the Town. However, they may also decrease the revenue from the adjacent real estate tax base. There is not a clear fiscal positive or a clear fiscal negative for this project.

*If the permit is granted and the hangars built, in order to ensure the Town is paid the proper Ch61A roll back, the amount of land enrolled in the Chapter 61A program must be properly documented and any reduction of that amount should be subject to roll back taxes or the Town's right of first refusal, as applicable under Chapter 61A.*

#### Section 10.4 Finding:

In consideration of the above Findings, the Selectboard finds that the benefits of the proposal

*Outweigh potential detrimental impacts?*

*Do not outweigh the impacts?*

*Only outweigh if conditions are added to control it?*

*Not enough information to reach a positive decision?*

*The Selectboard finds that the certain conditions are required to ensure the overall benefits continue to occur and that potential detrimental impacts are minimized and eliminated where reasonable.*

#### Proposed Conditions:

- 1. A Water Quality Protection Overlay District Special Permit from the Selectboard is required*

prior to the construction of any hangars or increase in impervious surfaces.

2. Grant of this Special Permit is for the aviation use as currently exists at the site plus six new hangars in the proposed location.
3. Grant of this Special Permit does not obviate the need for permits from the Planning Board or Conservation Commission, or any other local, state, or federal permit, as may be required.
4. The Owner shall provide to the Selectboard and the Assessors a map and calculation of the amount of land in the Chapter 61A program. If it is determined that there is less in qualifying use than is currently enrolled in the program, the difference shall be subject to any applicable conveyance or roll back taxes.
5. There shall be no increase in the length of the existing runways.
6. Expansion of any existing buildings by more than 250 square feet shall require a special permit.
7. There shall be no restaurant or food service conducted at the premises except as may be catered for events that have been permitted by the Selectboard.
8. There shall be no retail sales at the premises.
9. There shall be no more than \_\_\_\_\_ planes based or stored on the premises.
10. There shall not be more than \_\_\_\_\_ flight school planes in the air at any one time.
11. There shall be no jet aircraft on the premises at any time.
12. There shall be no more than \_\_\_\_\_ average daily aircraft operations on an annual basis.
13. There shall be no temporary entertainment events.
14. Use of the airport for training purposes by military aircraft shall not occur on weekends, and shall not occur on any day after dusk or before dawn.