

Mark Pruhenski
Town Manager

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www.townofgb.org



Town Hall, 334 Main Street
Great Barrington, MA 01230

Telephone: (413) 528-1619 x2
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TOWN OF GREAT BARRINGTON MASSACHUSETTS

OFFICE OF THE TOWN MANAGER

SELECTBOARD AND GB HOUSING AUTHORITY JOINT MEETING AND SELECTBOARD REGULAR MEETING IMMEDIATELY TO FOLLOW

MEETING AGENDA (VIA ZOOM)

CONFERENCE DATE: MONDAY, AUGUST 10, 2020

6:00 PM – REGULAR SESSION

LOCATION: ZOOM VIDEO

TOWN HALL, 334 MAIN STREET

ORDER OF AGENDA

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/83942116525?pwd=ZFFjd0luVkRyWHNaclhQcDZBUWNRQT09>

Dial-in, audio-only: (929) 205 6099

Webinar ID: 839 4211 6525

Passcode: 443443

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Great Barrington Selectboard and the GB Housing Authority will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on town's website, at www.townofgb.org. For this meeting, members of the public who wish to listen to the meeting may do so in the following manner: See instructions at the top of the agenda. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the town's website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

*****ALL VOTES ARE ROLL CALL*****

6:00 PM - OPEN MEETING

I. CALL TO ORDER:

- II. Selectboard and GB Housing Authority Joint Meeting
 - a. Appointment of member to the GB Housing Authority.
(Discussion/Vote)
- III. Citizen Speak Time.
- IV. Adjournment of Joint Meeting.

SELECTBOARD REGULAR SESSION: - OPEN MEETING

1. CALL TO ORDER:

2. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS:

- A. General Comments by the Board.

3. TOWN MANAGER'S REPORT:

- A. Department Updates
- B. Project Updates
 - Update on the Housatonic Water Works Company, Inc.
 - Request to the Housatonic Water Works Company, Inc. for a Rate Adjustment to Customers.
(Discussion/Vote)

4. PUBLIC HEARINGS: (Via Zoom)

- A. Special Permit application from Guido's Realty, Inc., 1020 South Street, Pittsfield, MA, for construction of a large scale commercial development in a B2 zone and an increase in impervious surface in the water quality protection district. The proposal includes the expansion of the existing Guido's retail store at 760 Main Street, Great Barrington, as well as parking, stormwater, utilities and site work. The application is filed per Sections 3.1.4 C(11), 7.9, 7.12, and 10.4 of the Zoning Bylaw. (Discussion/Vote)
 - a. Open Public Hearing
 - b. Explanation of Project
 - c. Speak in Favor/Opposition
 - d. Motion to Close or Continue Public Hearing
 - e. Motion re: Findings
 - f. Motion re: Approval/Denial/Table
- B. Special Permit application from Berkshire Aviation Enterprises, Inc., for an aviation field in an R4 zone at 70 Egremont Plain Road, Great Barrington, per Sections 3.1.4 E(1) and 10.4 of

the Zoning Bylaw. (Discussion/Vote)

- a. Open Public Hearing
- b. Explanation of Project
- c. Speak in Favor/Opposition
- d. Motion to Close or Continue Public Hearing
- e. Motion re: Findings
- f. Motion re: Approval/Denial/Table

C. Application of Agaves Mexican Grill LLC dba Agaves Mexican Grill, Sandra Sosa, Manager for a new Common Victualler Restaurant All Alcoholic Liquor License with outdoor seating capacity of 60 at 389 Stockbridge Road, Great Barrington, MA 01230. (Discussion/Vote)

- a. Open Public Hearing
- b. Explanation of Project
- c. Speak in Favor/Opposition
- d. Motion to Close or Continue Public Hearing
- e. Motion re: Findings
- f. Motion re: Approval/Denial/Table

5. LICENSES OR PERMITS:

- A. Sandra Sosa/Agaves Mexican Grill LLC dba Agaves Mexican Grill for 2020 Common Victualler Restaurant License at 389 Stockbridge Road with outdoor seating. (Discussion/Vote)
- B. Janice Keabel/Great Barrington Land Conservancy for Driveway Permit at entrance to Riverfront Trail, Brookside Road, over Town ROW. (Discussion/Vote)
- C. Gerard “Poly” Lanoue/Olde Yankee Street Rods for Temporary Sunday Entertainment License for September 6, 2020 (Rain Date September 7, 2020) from 9:30 am – 3:00 pm at Bogie’s Restaurant, front and rear fields, if needed. (Discussion/Vote)

6. NEW BUSINESS:

- A. GB Cultural Council – Request to allow the Grantees to Receive Funding whether they performed or not due to Covid 19, as per Mass Cultural Council directive. (Discussion/Vote)
- B. SB – Appointment of Election Workers. (Discussion/Vote)

7. CITIZEN SPEAK TIME:

Citizen Speak Time is an opportunity for the Selectboard to listen to residents. Topics of particular concern or importance may be placed on a future agenda for discussion. This time is reserved for town residents only unless otherwise permitted by the chair, and speakers are limited to 3 minutes each.

8. SELECTBOARD’S TIME:

9. MEDIA TIME:

10. ADJOURNMENT:

NEXT SELECTBOARD MEETING: - August 24, 2020 Regular Meeting

/s/ Mark Pruhenski

Mark Pruhenski, Town Manager

Pursuant to MGL. 7c. 30A sec. 20 (f), after notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium. At the beginning of the meeting, the chair shall inform other attendees of any such recordings. Any member of the public wishing to speak at the meeting must receive permission of the chair. The listings of agenda items are those reasonably anticipated by the chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

TOWN OF GREAT BARRINGTON

HOUSING AUTHORITY VACANCY

The Selectboard and the Great Barrington Housing Authority are accepting applications from residents to serve as a member of the Great Barrington Housing Authority until the next Annual Town Election. This position is a joint appointment of the Selectboard and the Housing Authority. Please submit all letters of interest by July 31, 2020 to Mark Pruhenski, Town Manager, Town Hall, 334 Main Street, Great Barrington, MA 01230 or e-mail hkuziemko@townofgb.org

Mark Pruhenski
Town Manager

Helen Kuziemko

From: mpakers@gmail.com
Sent: Monday, July 27, 2020 7:07 PM
To: Helen Kuziemko
Subject: Housing Authority Vacancy

I am writing to express my interest in being considered as a board member of the GB Housing Authority. As an active resident who has participated in many activities and roles in the life of Great Barrington for more than 20 years, I am narrowing my focus to concentrate on how I might support the needs of our population with not only well-managed, affordable and safe homes but also help support the execution of the existing by-laws and the details surrounding the recently award "creative place making" grant for Bernard Gibbons Drive.

I believe my background in architecture, building trades, local zoning and social and political issues has provided me with a solid grounding that would make me a sound contributing member to the board. Additionally, I understand that a good functioning local board requires members to "do their homework", listen to all opinions and input on agenda items and to voice well-thought out and studied opinions on items.

Thank you for your consideration.

Mary Pat Akers
4 Cottage Court
(413) 250-4664

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.

TOWN OF GREAT BARRINGTON

NOTICE OF PUBLIC HEARING

The Great Barrington Selectboard will hold a Public Hearing on Monday, August 10, 2020 at 6:00 pm, to act on the Special Permit application from Guido's Realty, Inc., 1020 South Street, Pittsfield, MA, for construction of a large scale commercial development in a B2 zone and an increase in impervious surface in the water quality protection district. The proposal includes the expansion of the existing Guido's retail store at 760 Main Street, Great Barrington, as well as parking, stormwater, utilities and site work. The application is filed per Sections 3.1.4 C(11), 7.9, 7.12, and 10.4 of the Zoning Bylaw. A copy of the application is on file with the Town Clerk.

The meeting will be held via remote video/teleconference and in accordance with current emergency health orders, in-person attendance at this hearing will not be permitted. Instructions for participating in the Hearing will be listed on the Selectboard's August 10, 2020 agenda, which will appear on the Town's website, www.townofgb.org, at least 48 hours prior to the meeting, or you may call 413-528-1619, x. 2 to receive instructions.

Stephen Bannon, Chair

Please publish July 16 and July 23, 2020
Berkshire Eagle

Follow the link to see the application and supporting documents:

<https://www.dropbox.com/s/e898i9vyuxbkh3f/Guido%27s%20SP%20Application%20with%20all%20exhibits.pdf?dl=0>

Town Hall, 334 Main Street
Great Barrington, MA 01230



*Planning Board's
Recommendation*

Telephone: (413) 528-1619
Fax: (413) 528-2290

TOWN OF GREAT BARRINGTON
MASSACHUSETTS

PLANNING BOARD

August 3, 2020

Selectboard
Town Hall
334 Main Street
Great Barrington, MA 01230

Re: Special Permit #911-20
Guido's Fresh Marketplace

Dear Members of the Selectboard;

At its meeting of July 23, 2020, the Planning Board voted to send a positive recommendation on the special permit application submitted on behalf of Guido's Fresh Marketplace located at 760 & 770 Main Street.

The Board recommends the waiver request of 7.9.4 #5 to allow parking in front of the building and that the traffic study be reviewed by an independent engineer.

Thank you for the opportunity to comment.

Sincerely,

Kimberly L. Shaw

Kimberly L. Shaw
Planning Board Secretary



Stantec Consulting Services Inc.
136 West Street Suite 203
Northampton MA 01060-3711

August 6, 2020
File: 230_Guido's

Attention: Christopher Rembold, AICP

Town of Great Barrington
334 Main Street
Great Barrington, MA 01230

Dear Christopher,

Reference: Guido's Fresh Marketplace

Per your request, we completed a peer review of the traffic investigations prepared by the applicant for the above referenced project. Our review comments and recommendations are provided below.

Project Description

Guido's Fresh Marketplace proposes to expand their existing market at 760 South Main Street in Great Barrington. Based on project site plans by SK Design Group dated March 26, 2020, the proposed market will include 35,225 square feet of gross floor area. The existing store includes 15,900 square feet of gross floor area. The parking supply, including accessible spaces, will be increased to 134 spaces from 99 spaces. Vehicular access to the site will remain as is with an entrance from South Main Street at the northern end of the site and an exit driveway to South Main Street at the southern end of the site. A traffic impact study dated June 29, 2018 was prepared for the project by Fuss & O'Neill. The project is subject to local site plan review.

Recommendations

Based on our review of the F&O study, we find that it provides a sound and professional analysis of the proposed development. While the proposed building program has changed since the study was completed in 2018, the project-related traffic impacts analyzed are consistent with, if not conservatively, the impacts associated with the current project. Consequently, we do not see a need to update or amend the 2018 study.

The study recommends certain improvements which we support. Specifically, the study recommends the installation of MUTCD compliant "Do Not Enter" signs controlling the one-way operations at the two site driveways. Installing these signs will better ensure that wrong way movements do not occur at the driveways.



August 6, 2020
Christopher Rembold, AICP
Page 2 of 8

Reference: Guido's Fresh Marketplace

Pedestrian access to the site was not discussed in the traffic study and the traffic counts provided indicate nominal pedestrian traffic at the site. However, the project site plan indicates that the parking supply to the rear of the market will be expanded. Inclusion of a pedestrian walkway connecting this parking to the store entrance at the front of the building should be considered. Likewise, a pedestrian connection from South Main Street to the store entrance should be explored.

Site Visit

In addition to reviewing the traffic study, Stantec conducted a site visit midday on Saturday, July 25, 2020 to observe existing roadway and traffic conditions for approximately 30 minutes. The weather was warm and dry. The project area was accessed by Route 7 north passing through the Great Barrington town center. Traffic in the center was heavy, slow moving, and likely indicative of typical, perhaps pre-Covid 19, summer conditions.

At the project site, traffic flowed smoothly along South Main Street. Traffic using the Big Y plaza traffic signal was processed with no significant delays or any excessive vehicle queuing. Queues in the northbound left-turn were not observed extending south to the Guido's entrance driveway. No significant queueing was observed for vehicles entering or exiting the Guido's site. Delays for vehicles exiting the Guido's site were minor although some motorists waited as much as 30 seconds to turn left from the site. A walkway between Guido's and the Big Y plaza was being used by pedestrians. At least one vehicle was observed leaving the Big Y plaza and they immediately turned right to enter the Guido's site. Overall, no operational problems were observed.

As noted in the F&O study, signage defining the one-way conditions on the Guido site driveways is substandard. There were no designated pedestrian walkways from South Main Street along or through the Guido's front parking lot to the store entrance. The front parking lot was 2/3 to ¾ full during the site visit.

Report Comments

In general, the F&O study was completed consistent with standard professional practices, including reasonable assumptions leading to valid technical analyses. Comments relative to individual elements of the report are provided below.



Reference: Guido's Fresh Marketplace

1. Study Area Limits

The project study area includes four intersections along South Main Street, (Route 7), including the project site driveways. These limits are reasonable given the scale of the project and include all significant intersections proximate to the site.

2. Existing Roadway Conditions

The existing roadway and land use conditions for the study area are consistent with our field observations.

3. Existing Traffic Volumes

Vehicle turning movement counts were conducted in June 2018 during weekday AM, weekday PM and Saturday midday peak periods. 24-hour volume counts were also conducted for South Main Street and seasonal traffic volume data for a nearby MassDOT permanent count station were considered. Based on the data presented, June volumes reflect above average traffic conditions and the turning movement count time periods capture the peak traffic hours. The existing traffic flow networks presented represent an appropriate baseline condition for the analyses that follow.

4. Existing Roadway Conditions

The existing roadway and traffic conditions reported are consistent with our field observations.

5. Background Traffic Growth

Existing traffic volumes were projected to a future design year, 2025, consistent with standard engineering practice. The overall growth rate applied, one percent per year, is conservative given trend data showing a recent decline in volumes and potential long-term impacts of the Covid-19 pandemic. The projections also included traffic from new development projects planned but not yet built at the time of the study. The 2025 "No Build" traffic flow networks reflect these growth assumptions.

6. Trip Generation

The ITE *Trip Generation* manual was used to estimate project generated vehicle trips. This is a standard and appropriate tool for developing traffic forecasts. The study used the "fitted curve" or regression equations to estimate vehicle trips for an existing 13,900 square feet supermarket and a proposed 31,000 square feet supermarket. The study also includes counts of the existing traffic at the site driveways. The study concludes that the proposed project would add 148 vehicle trips to the roadway network during the weekday PM peak commuter hour and 168 new vehicle trips during the Saturday peak hour. (Figures are provided in Table 4.1.)

The F&O study was prepared in June 2018, probably when the plan was slightly different. The project site plans indicate that the existing building floor area is 15,900 square feet and the proposed floor area is 35,225 square feet. Consequently, Stantec generated new vehicle trip estimates based on the current land use information to compare to the F&O figures. Stantec



Reference: Guido's Fresh Marketplace

also used ITE trip generation rates for supermarkets to estimate the expected percentage change in vehicle trips due to the project and then applied these percentages to existing site traffic generation. As shown in Table 1, application of the ITE rates indicates that the proposed change in store size would increase site generated traffic volumes by 82 percent in the PM peak hour and 73 percent during the Saturday PM peak hour. Applying these percentages to the existing traffic volumes at the site indicate that the project will add 138 vehicle trips to the roadway network during the weekday PM peak commuter hour and 184 new vehicle trips during the Saturday peak hour. These estimates are comparable to the F&O figures and consequently, the trip generation forecasts of the F&O study are considered valid with the exception of the issue described below.

Table 1 Trip Generation Analysis

	Existing (Actual)	Existing (Calculated)	Future (Calculated)	% Increase (Calculated)	Stantec	F&O	Stantec v	
					Future (Actual x % Increase)	Increase	Increase	F&O Difference
AM	22	61	135	221%	49	27	65	38
PM	169	197	358	182%	307	138	148	10
Sat	251	249	432	173%	435	184	168	-16
Floor Area (SF)		15900	35225	209%				
		LUC 850	LUC 850					
		fitted PM, SAT	fitted PM, SAT					
		Avg AM	Avg AM					

The F&O trip forecasts are conservative (high) in that they do not consider pass-by trips. Pass by trips represent trips to the site made by motorists that otherwise would be driving past the site to another destination. Pass-by trips add to the turning movements at the site driveways but are offset by a corresponding decrease in the through traffic volumes passing the site. They have no impact at intersections other than the site driveway. The ITE *Trip Generation* manual indicates that pass-by trips on average account for approximately 36 percent of the total site traffic volumes. A proper accounting of pass-by trips in the F&O study would reduce the off-site traffic impacts of the project by 36 percent relative to the reported results.

Stantec also compared the projected trip generation for the proposed project to the existing trip generation for the Big Y plaza. For the Saturday peak hour, the Big Y plaza generates 346 peak hour vehicle trips at its signalized driveway based on counts included in the F&O study. The northern, right-in/right-out only driveway was not counted. However, based on the turning movements reported at the signalized driveway, Stantec estimates that there are another 167



Reference: Guido's Fresh Marketplace

peak hour vehicle trips at this driveway indicating a total plaza volume of 513 Saturday peak hour vehicle trips. Based on a review of aerial images, the Big Y plaza includes approximately 94,000 square feet of floor area. The F&O study projects 395 Saturday peak hour trips, approximately 80 percent of the Big Y plaza total, for a proposed 35,225 square feet store. This may also be an indicator that the trip estimates for the proposed Guido's project are conservative.

7. Trip Distribution

The trip distribution pattern assumed for new site generated traffic is generally consistent with existing traffic patterns, including turning volumes at the site driveway.

8. Vehicle Crashes

Crash rate data for the study area intersections were reviewed for a three-year period in accordance with standard engineering practice. Crash rates calculated for the intersections are well below the statewide averages.

9. Intersection Sight Distance

Intersection sight distances were examined along South Main Street at the site exit driveway. The measured sight lines are reportedly more than adequate to allow safe entry onto South Main Street for the prevailing traffic speeds. This finding is consistent with our field observations.

10. Intersection Operations

Intersection capacity analyses were conducted following procedures described in the *Highway Capacity Manual* consistent with standard engineering practice. The procedures were applied properly. The results indicate that the one signalized intersection in the study area at the Big Y plaza driveway operates with only nominal delays, Level of Service (LOS) B or better, for all scenarios and time periods. This is also true for through movements along South Main Street, the unsignalized driveway, and side street intersections. Unsignalized side streets and driveways are subject to longer delays with the addition of project traffic changing the level of service (from No Build to Build scenarios) in the following cases:

-The Fairgrounds Drive approach drops from LOS D to LOS E due to the project under Saturday, peak hour conditions.

-The Reed Street approach drops from LOS E to LOS F due to the project under Saturday, peak hour conditions.

-The Guido's exit drive left turn movement drops from LOS E to LOS F due to the project under Saturday, peak hour conditions.

The Guido's exit drive left turn movement has the highest calculated delays. The capacity analysis worksheets indicate that this movement operates at 95 percent of capacity during the Saturday peak hour.

The Intersection capacity analysis results are conservative. As described above, the project related trip generation forecasts are high. Higher volumes generally indicate worse analysis results. Also, the analyses do not consider the impact of the traffic signal at the Big Y plaza to



August 6, 2020
Christopher Rembold, AICP
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Reference: Guido's Fresh Marketplace

interrupt South Main Street traffic flows and create gaps allowing side street and driveway traffic to enter South Main Street more easily.

11. Vehicle Queueing

The traffic study includes calculations for vehicle queueing on the approaches to the study intersections. This information is provided on the worksheets in the report appendix but was not brought forward and discussed in the study. This information is relevant to understand operations and potential conflicts at the site driveways. In particular, long queues in the northbound left-turn lane into the Big Y driveway could block traffic trying to enter Guido's or tempt drivers to make a left-turn into Guido's from a standing vehicle, a potential safety issue if sight lines are obstructed by a large vehicle in the queue. An extremely long queue for the northbound left turn into the Big Y plaza could also block traffic from exiting the Guido's site. These operational issues were not observed during the site visit and the reported crash rates for the study intersections do not indicate an existing safety problem. However, an examination of the future Build condition vehicle queueing is appropriate to determine if these scenarios might arise in the future.

The vehicle queueing information for the most critical peak hour, the Saturday midday peak hour, are reported in Figure 1 for Build conditions. Average and 95th percentile vehicle queue lengths are shown. As indicated, calculated future vehicle queues for the northbound left-turn movement into the Big Y plaza are not expected to impact driveway operations at the Guido's site. The calculated 50th percentile vehicle queue is only eight feet and the 95th percentile vehicle queue is 23 feet, approximately one car length. The separation between

DRAFT FOR REVIEW



August 6, 2020
Christopher Rembold, AICP
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Reference: Guido's Fresh Marketplace

the stop bar for the left turn into the Big Y plaza and the center of the Guido's entrance driveway is approximately 125 feet.

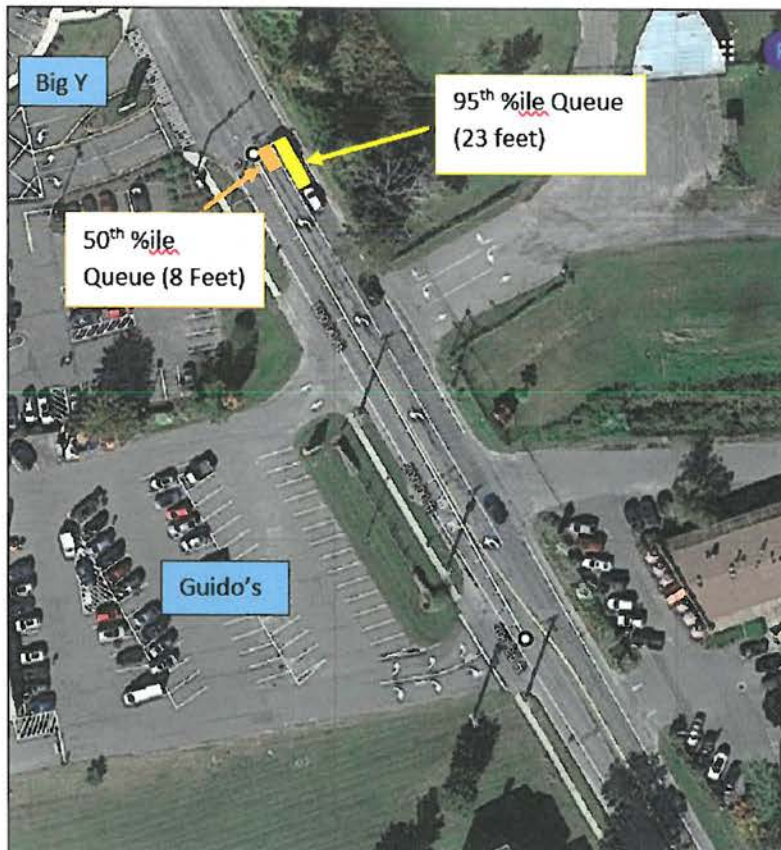


Figure 1 Calculated Saturday Build Condition Vehicle Queues

The calculated vehicle queue lengths at the Big Y intersection are dependent upon the assumed signal timings. The timings applied by F&O for the operations analysis indicate very modest queue lengths for the left turn into the Big Y plaza. A good "rule of thumb" that does not rely on signal timings is to assume that the 95th percentile vehicle queue in feet is equal in magnitude to the hourly left turn volume. The Saturday Build condition left turn volume is 67 vehicles per hour indicating a 95th percentile vehicle queue length of 67 feet. This queue corresponds to less than three vehicles.



August 6, 2020
Christopher Rembold, AICP
Page 8 of 8

Reference: Guido's Fresh Marketplace

If you have any questions regarding the above, please do not hesitate to contact us. We are available at your convenience.

Regards,

STANTEC CONSULTING SERVICES INC.

A handwritten signature in blue ink that reads "Richard S. Bryant".

Richard Bryant
Senior Associate
Phone: (413) 387-4502
Richard.Bryant@stantec.com

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TOWN OF GREAT BARRINGTON

NOTICE OF PUBLIC HEARING

The Great Barrington Selectboard will hold a Public Hearing on Monday, August 10, 2020 at 6:30 pm, to act on the Special Permit application from Berkshire Aviation Enterprises, Inc., for an aviation field in an R4 zone at 70 Egremont Plain Road, Great Barrington, per Sections 3.1.4 E(1) and 10.4 of the Zoning Bylaw. A copy of the application is on file with the Town Clerk.

The meeting will be held via remote video/teleconference and in accordance with current emergency health orders, in-person attendance at this hearing will not be permitted. Instructions for participating in the Hearing will be listed on the Selectboard's August 10, 2020 agenda, which will appear on the Town's website, www.townofgb.org, at least 48 hours prior to the meeting, or you may call 413-528-1619, x. 2 to receive instructions.

Stephen Bannon, Chair

Please publish July 16 and July 23, 2020
Berkshire Eagle

Follow the link to see the application and supporting documents:

<https://www.dropbox.com/s/537qbbwmz67ct17/Airport%20SP%20application.pdf?dl=0>

Town Hall, 334 Main Street
Great Barrington, MA 01230



*Planning Board's
Recommendation*

Telephone: (413) 528-1619

Fax: (413) 528-2290

TOWN OF GREAT BARRINGTON
MASSACHUSETTS

PLANNING BOARD

August 3, 2020

Selectboard
Town Hall
334 Main Street
Great Barrington, MA 01230

Re: **Special Permit #909-20**
Great Barrington Airport

Dear Members of the Selectboard;

At its meeting of July 23, 2020, the **Planning Board** voted to send a positive recommendation on the special permit application submitted on behalf of the Great Barrington Airport located at 70 Egremont Plain Road.

The Board recommends that the Selectboard require documentation about the Airport's use and handling of hazardous material and in granting a special permit, consider limitations on the overall air traffic volume as well as limitations on the type of aircraft, so that expansion of operations and/or aircraft volume would require a review of the special permit.

Thank you for the opportunity to comment.

Sincerely,

Kimberly L. Shaw

Kimberly L. Shaw
Planning Board Secretary

Cc: Chris Rembold, Assistant Town Manager

To the Members of the Select Board for the Town of Great Barrington and Town Manager

My name is Michael Peretti, a Great Barrington resident living at 125 Seekonk Cross Rd. I am writing in regards to the Special Permit that has been request by Berkshire Aviation Enterprises Inc. located at 70 Egremont Plain Rd. dated 5/1/2020.

Having lived on Seekonk Cross Rd for 58 years, 5th generation to live on the Egremont Plains, I feel qualified to express my options and observations about the Walter J Koladza Airport and Berkshire Aviation. The Walter J Koladza Airport has remained unchanged my entire life. Same runway, office building, maintenance shop, storage building and aircraft hangar. I have consider it part of my neighborhood where I live along with settings of open fields, mountain backdrops and the amazing Green River running beside alongside this property. Not many places in the Berkshire have remained so unchanged for this long. It is a bit complicated to have this non-conforming business sitting in the middle of an R4 residential zone that technically should not be able to do so. I can't remember a time before 2008 when the airport was even talked about with issues pertaining to its operation. In 2008 when Mr. Koladza passed away, his estate willed the property to some of the current owners of Berkshire Aviation Enterprises (BAE). Since then some have sold out to outside investors or other hobbyist pilots. With new owners come new ideas to create income and uses for the facilities, here is when the troubles begin for us who live alongside the airport.

The Walter J Koladza Airport provides a tracking site <https://flightaware.com/live/airport/KGBR> for all flights arriving and departing. Flight traffic changes with the seasons, just like here in the Berkshires. Warmer and longer days brings out more aviation activity. The flights tracked are either charter flights or private planes in route to other location or just stopping for fuel along their way. From the data, there are relatively few flights weekly with an uptick on the weekends.

BAE on the other hand runs a full time operation at 70 Egremont Plain Road according the information in the special permit application, with 12 employees. The flight school traffic is not recorded by the flight ware tracking at all. I have no ideas if this is public information or been asked for by anyone in town government. According to their website <http://www.berkshireaviation.com/> they maintain 7 aircraft for either pilot training or rentals. On a typical weekend day, Saturday or Sunday from sun up to sundown, 1 training plane will take off and land every 5 MINUTES , that is 12 times an hour for 2 to 4 straight hours at any given time. When you get 2 planes (pilots) in training its amazingly noisy and disturbing especially on Sunday evenings. Most recently, I have watch 2 planes run for 4 straight hours! BAE really does run unchecked with little regards to the people living nearby. It seems there is no limitations on hours of operation on weekends, number of training flights on a given day and little observance of the flight pattern according to their website. See "update noise abatement procedures for runway 11 & 29" on their site. I have provided video clips of BAE planes cutting through the designated flight pattern to our Town Planner, Chris Rembold over to tops of homes along Egremont Plain Rd as well as my property on Seekonk Cross Rd. To be clear this is occurring every day. Very distressing to think things will change once a special permit is in hand. I hate that fact that BAE feels entitled to special rules because "they" existed before zoning, none of us where alive in 1930 and actually, BAE was started in the 1950's

Please consider how much the Walter J Koladza Airport will change once the owners of BAE have received this special permit. Do I dare say expansion or construction of new the runway to accommodate larger aircraft, an air terminal, air fright terminal, and heliport for wealth commuters, drone delivery, an aircraft sales center or even sell the whole operation to bigger corporation? During the early days of the Covid-19 shut down, I was interested to learn that The Walter J Koladza Airport is considered an essential business, which is understandable for medical flights, and that BAE is listed as non-essential and had to suspend activity.

In closing, this is not about new aircraft hangers as if most would like to believe. , it is not about closing the airport, as most people believe. It is really about being a good neighbor, operating a decent business around where people live. Having consideration for us neighbors who are not aviation enthusiast, not pilots or aircraft owners. I am just looking to maintain my simple and quite lifestyle especially in the state of world we live in today. I just need little help making BAE understanding we too have special requirements like quite evening sitting outside at sunsets and backyard gathering without continuous noise from above, sounds of military helicopter practicing in the cover for darkness and hours of continuous takeoff and landing while circling our home. We can get this right but we need to walk this out slowly, create new guidelines, and put regulation as to how BAE operates certain parts of its business. I do not feel now is the correct time to grant a special permit having pointed out some of the operational issues I have identified and brought the your attention.

Thank you for your attention on this very important matter.

Sincerely,

Michael Peretti

125 Seekonk Cross Rd.

Great Barrington, MA 01230

michaelperettimxp@gmail.com

To the Great Barrington SelectBoard,

Please do not exceed your authority and issue a special permit to establish a Walter Koladza Regional Community Business Airport at 70 E.P.R. based on a dimensionless substantially flawed special permit application for a parcel that has no Deed Recorded in the Registry, and for the following reasons,

What would Walt do to my Walden?

On 7/17/2017 Berkshire Aviation Enterprise (B.A.E.) applied for a Special Permit before the Gt. Barr. Selectmen, at that time they were told by chairman Sean Stanton “you do know you could not establish yourself today where your located, referring to the Water Quality Protection Overlay District Zone 11 (WQPOD).

This serves as a formal response to the substantially flawed incomplete Special Permit application submitted by S-K Design Group Surveyor, Engineer and Land Planners on behalf of B.A.E. 70 Egremont Plain Road (E.P.R.), is a Sworn Affidavit based on personnel knowledge, is stated for the record, is putting the town on notice, and have the documentation to support my claim, and did not receive any plans in the permit application until July 29th.

I request this affidavit be read into the record and incorporated into the record of this proceeding.

1) The Cover Sheet states,

“We hereby submit for your consideration a request for a Special Permit for an aviation field at the existing Great Barrington Airport (aka Walter J. Koladza Airport). The goal is to obtain a land use permit for the current use”.

“Specifically the operator Berkshire Aviation Enterprise wishes to permit the nonconforming use”. There is a footnote that references “Aviation field as defined by the Great Barrington zoning bylaw” which states in part.

SECTION 7.0 SPECIAL REGULATIONS

7.2 Aviation Fields

7.2.1 General. Any Aviation field public or private, with essential accessories, shall comply with the following:

“In accordance with Chapter 90 of the Mass. General Law Section 35B” and goes on about building height and that is it. There is no mention of the granting of a special permit or local authorization to do such but does give the regulations for establishing an airport under M.G.L. Chapter 90 Section 39 - 39G Aeronautic Commission, powers, rules and regulations,

Pursuant to Mass. General Law Chapter 90 section 39B no one may establish, alter, activate, or deactivate an airport, without first obtaining a certificate of approval by the Mass.

Aeronautics Division pursuant to 702 Commonwealth Mass. Regulations (CMR) Mass. Aeronautics Commission 5.02 through 5.06.

5.03 (3) Applicants proposing an airport that is partially on land not owned or controlled by the applicant and owned or controlled by others must obtain authorization from the owner or person in control of the property to use the property. The signature of that person must be notarized and such written notarization must expressly authorize the applicant to apply for the activities set forth in the application.

This applies directly to me and my 78 E.P.R. property, and I have not given any written authorization.

5.03 (4) requires a site plan drawn to scale and a written plan addressing safety and security.

5.03 (8) Pursuant to M.G.L.c.90 s.39B, before issuing a certificate of approval for an airport the division shall hold a public hearing in the city or town where the airport is to be located.

5.04 Any approval issued by the division shall be limited to the facts submitted with the application.

To date, the Aeronautics Commission has been steadfast in their refusal to speak or respond to my record request for information regarding the 2008 inclusion of B.A.E. in their Statewide Airport System Plan slated for a 2017, 3.4 million dollar Phase 1 development plan for a "Walter J. Koladza Gt.Barr. Community Business Airport".

I Claudia Shapiro am swearing to this sworn affidavit based on personnel knowledge that,

a) to date there is no legal entity known as "Gt. Barr. Walter J. Koladza Airport".

b) Berkshire Aviation Enterprise is not "legally preexisting," and is a piece of an airport that does not own or control the required "200 feet from the end of the usable take off or landing area at the end of a runway", to be an airport, I do, nor do they own or control my portion of the Runway Safety Area both of which I maintain.

"RE: Great Barrington Airport aka Walter J. Koladza Airport Berkshire Aviation Enterprise, Inc. Special Permit for an Aviation Field and the Cc says **Gt. Barrington Airport Expansion** Special Permit.This is not for Berkshire Aviation Enterprise, it is for a "**KGBR**" "**Koladza Gt. Barr. Regional Airport**" and is for an expansion and is for the Town of Gt. Barr.

The Table of Contents claims 64 pages, I paid through a Record Request \$4.40 for 88 pages @ 5cents and received 87 doubled sided pages. So the Table of Contents verse the amount of pages don't add up. There are pages missing, Sections entirely missing, and Sections that are not numbered. This leaves for additional documents to be added or subtracted at a later date making an open book out of this incomplete application.

Table of Contents

1) Town of Gt. Barr. Application for a Special Permit” 2 pages, it is the Town of Gt. Barr. that is applying for this special permit and unfortunately it is the Town that is not being transparent.

2) The Town of Gt. Barr. Abutters List 1 page. I do not abut the Town of Gt. Barr., I live in it. The abutters to the Town of Gt. Barr. are the surrounding Towns who’s notification is a requirement for establishing an airport.

Page 2) Which is not numbered states in capital letters TOWN OF GREAT BARRINGTON APPLICATION FOR A SPECIAL PERMIT. Every time the airport applies for a special permit it has been for the Town of Gt. Barr., empowering airport personnel, and neighbors against me.

When a nonconforming use gets a Special Permit they have to come into compliance. The only way B.A.E can come into compliance is with my written permission. There are several other abutting properties that constitute the Runway Safety Area, Runway Protection Zone, and the Object Free Zone Area that the airport would need to control or maintain and cannot eminent domain. (U.S.Supreme Court Griggs v. Allegheny County, 369 U.S. 84 (1962))

Compliance for a “Community Business General Aviation Airport” as presented in this special permit application would include but not be limited too, runway extension, security fencing, a terminal building, recycling program, hangars, and essential services.

Anything in this application that is not challenged is to be construed as accepted and I Claudia Shapiro 78 E.P.R. do not accept and am challenging every aspect of this substantially flawed incomplete special permit application for the following reasons,

This application is filed on a SP1 Short Form which is not for airports which are required to file on a SP2 Long Form, taken from the Gt. Barr. Zoning Manuel Code E 360, Subsection E (1), even so this application is incomplete.

#2 Brief written description of how the project is in harmony with the Gt. Barr. Master Plan is not included, but I quote from the Master Plan the following,

“The airport is located in the water quality protection district, **upstream of the Green River water supply galleries**, and is a residential and agricultural area. 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.This application violates this standard.

#4 Plan should show all existing and proposed structures, property lines and dimensions, there is no plan showing dimensions included in this application.

#5 Certified list of Abutters.

The abutter’s list is for the “Town of Gt. Barr.” This application is filed by a professional surveyor, civil engineer and land planner yet bears no seal, is dimensionless, has no survey, plot plan or a site plan review lot layout and dimensions, so one does not know the accurate abutters. It involves property on North Plain Road and there is no abutters list for that parcel.

There is no Recording in the Registry of Deeds for this parcel located at 70 E.P.R. Gt. Barr. Mass., B.A.E. no longer exists and has been replaced with a "Walter J. Koladza Airport" that has been back dated to 1967. This is illegal, leaves for an open book and lacks transparency.

Page 1) BACKGROUND "B.A.E. operates and owns the Great Barrington Airport (KGBR)", Koladza Great Barrington Regional Airport and states the "facility is located along Egremont Plain Road and at the corner of Seekonk Cross Roads" is false, misleading and a misrepresentation of fact. To date there is no Gt. Barr. Walter J. Koladza Airport and is a subject of this affidavit. There is a house on the corner of Seekonk Cross Roads and there are four homes on E.P.R. followed by a stretch belonging to B.A.E. followed by five house, the fifth 86 E.P.R. is claimed to be owned in the phone book by the Town of Gt. Barr.

USE "the airport is an established at this location since the 1920s", an established what? This sentence is incomplete and false, the airport has never been established and is attempting to do so now and has been since the Walt's estate was settled in Feb. 2008.

Great Barrington Airport Operations "Gt. Barr. Airport named the Walter J. Koladza Airport" is a "privately owned Community Business Airport". This is a change of use, what is next door is a private airport called B.A.E. that was Walt's Koladza's hobby. It cites baseline information from the Mass. Statewide Airport System Plan (MSASP).

In 2008 the airport landed in the MSASP as a "Walter J. Koladza Community Business Airport" slated for a 2107 Phase 1 3.4 million dollar expansion that includes in part a Terminal Building, an inclusion that would require the Town, my property, and other land abutters properties.

In Sept 2009 B.A.E. filled out a detailed 18 page questionnaire for the Mass. DOT Aeronautics Division requesting information to be used in the 2009 Statewide Airport System Plan. I could never retrieve the completed questionnaire that disclosed in part the following,

How much acreage the airport was and whether they had ownership or control over the runway Protection Zone at each end of the runway, whether they had a Recycling Program and a Comprehensive Solid Waste Management Plan. It asks if surrounding municipalities have appropriate zoning controls, and does the airport have an established or developable industrial park or land for future development. They had to disclose if they hosted annual Fly-Ins and if they were a member of the local Chamber of Commerce both promoted to garner public support.

It asks if the airport has any onsite businesses and on 3/29/18 according to the Secretary of State B.A.E. Inc. changed its name to Berkshire Holdings Ltd.

A Koladza Gt. Barr. Regional Community Business Airport would affect the environs to the airport as well, this would be devastating to the WQPOD Zone 11.

Page 2) #1) The MSASP revealed that 21 of the 37 airports in the Plan have hangar waiting list from one to an extensive list of 25 at the Walter J. Koladza Airport and claims this fact “establishes the need to file and obtain a special permit”? Mr. Scalise said the same thing Attorney Robbins stated, if the special permit is granted the hangars are by right, all 6 or all 25.

2) Airport has RIEL (Runway End Identifier Lights), which are high intensity strobe lights that when on inhibit the ability to go outdoors, one must close the curtains, I attempted to complain to no avail. These lights are dangerous to the naked eye.

5) Claims leaded and unleaded fuel but these little planes don't use unleaded fuel, bigger jets require unleaded fuel and an extended runway. Mr. Scalise claims he does not know if these planes require unleaded fuel or not? You stated you had a pilots license.

9) **Airport Plans** and studies claims to have an “obstruction analysis at the end of runway 11 and a noise abatement” but no survey, plot plan, site plan layout or dimensions in this application.

10) **Environmental:** Airport has onsite resource areas delineated; this application is skirting the fact the airport is required to file under section 9.2 WQPOD and is in the Upper Wellhead Public Recharge Protection Area Zone 11 the most sensitive part of the Towns Sole Source Aquifer, and goes on to state “KGBR has a recycling plan” a requirement in the MSASP for the airport to be 100% compliant.

In 2008 the Planning Board initiated codifying the Zoning Bylaw and in 2010 the following recycling plans/provisions where added to the Zoning Bylaw WQPOD Section 9.2.

WQPOD Section 9.2.8 Prohibited Uses. The following uses are prohibited in the WQPOD.

4. Facilities that generate, treat, store or dispose of hazardous waste that are subject to G.L.c. 21C and 310 CMR 30.00 except for:

a. Very Small Quantity Generators as defined under 310 CMR 30.000;

b. Household hazardous waste centers and events operated in accordance with 310 CMR 30.390;

c. Waste oil retention facilities required by G.L. c. 21 s. 52A;

5. Water remediation treatment works unless approved by DEP for the treatment of contaminated groundwater or surface water;

6. Petroleum, fuel oil, and heating oil bulk stations and terminals, not including liquefied petroleum gas;

7. Storage of liquid hazardous materials and or liquid petroleum products;

8. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR

12 b. Treatment works approved by the DEP.

12 c. Publicly owned treatment works

9.2.9 Prohibited Uses; Inner Zone. The following uses may be permitted in the Outer zone but are expressly prohibited in the Inner Zone:

1. New or expanded underground storage tanks (310 CMR 22.20B);
2. Motor Vehicle Repair Operations;
4. Solid waste combustion facilities or handling facilities as defined in 310 CMR 16.00;
5. Land uses that result in the rendering impervious of more than 15%, or more than 20% with artificial recharge, or 2,500 square feet of any lot, whichever is greater,
6. Commercial outdoor washing of vehicles, commercial car washes.

9.2.11 Nonconforming Uses. Continuation of a legally preexisting nonconforming use shall be allowed, provided that:

1. The nonconformity shall not be increased or expanded. This is directly followed by,

9.2.12 Uses and Activities requiring a special permit. The following uses and activities are permitted only upon the issuance of a special permit by the Board of Selectmen (SPGA) under such conditions as it may require:

1. Enlargement or alteration of existing uses the 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. A system for groundwater recharge must be provided which does not degrade groundwater quality. For nonresidential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all nonresidential uses, all such basins and wells shall be permanently maintained in full working order by the owner. Special permits for nonresidential uses as described in this subsection are not allowed in the Surface Water Source Protection Zones A and B.

9.2.13 Procedures for issuance of special permit.

The special permit granting authority (SPGA) under this section shall be the Board of Selectmen. Such special permit shall be granted if the SPGA determines, in conjunction with the Board of Health, the Conservation Commission, the Town Engineer/Department of Public Works, and the Planning Board that the intent of this section, as well as its specific criteria, are met. The SPGA shall not issue a special permit under this section unless the petitioner's application materials include in the SPGA's opinion, sufficiently detailed, definite, and credible

information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendation of the other Town boards or agencies in its decision.

3. Evidence of compliance with the regulations under the Massachusetts Hazardous Waste Management Act, 310 CMR 30.000. Including obtaining an EPA identification number from the DEP. These provisions apply to Simon's Rock of Bard College, 78 E.P.R. and the Egremont Transfer Station and DPW documented in the 2003 Source Water Assessment Program Report.

Section 11 Definitions WQPOD, added a definition in 2010 of a VSQG (Very Small Quantity Generator) as "any entity public or private other than residential".

These provision apply to 78 E.P.R. documented in 2003 Source Water Assessment Program (SWAP) Report written in 2003 for the Gt. Barr. Fire District mandated by the Federal Government under the Safe Water Drinking Act to inventory land uses within the public water supply. This report documents the airport with underground tanks and being the "Greatest Concern in the Gt. Barr. WQPOD" **and that is it.**

This SWAP Report documents **78 E.P.R. as a Regulated DEP Permitted Facility** within the **Water Supply Protection Area** with a **Permitted Activity of Very Small Quantity Generator (VSQG), an Activity Class of Hazardous Waste Generator** and a **Facility Description of Auto body/Repair**. The DEP Facility Number is 398876 and the property has a MV United States Environmental Protection Agency (USEPA) Number which is my phone number MV4135286053 with a generation status of Federal RCRA, the Resource Conservation Recovery Act which promotes community source reduction and beneficial reuse. This number is permanent (MV) and attaches to 78 E.P.R. and is no longer obtainable in the WQPOD and is an USEPA (United States Environmental Protection Agency) Identification number required to obtain a special permit added in 2010 to the Zoning Bylaw WQPOD Section 9.2.13. and a subject of my struggle.

This SWAP Report was written for the Gt. Barr. Fire District, and was sent to the Board of Health, Conservation Commission and the Planning Board, so the town knew all about the rights that attached to 78 E.P.R. since 2003 and was fully aware of those rights when the Planning Board came after us for operating our humble shop as soon as Walt passed away in 2004 and supported a trumped up scandalous cease and desist against us in 2010.

The 2010 Master Plan is Award winning for what I do not know and to date could never retrieve the plan for my neighborhood.

I do know that Pittsfield has an Award winning Combustion Facility and I documented that a Combustion/Handling Facility provision was added in 2010 to the Zoning Bylaw WQPOD Section 9.2 a provision that applies to my property.

11) states “Koladza Gt. Barr. Airport is a General Aviation Airport is false, misleading, and a misrepresentation of fact. A General Aviation Airport is defined as “public-use airports that do not have scheduled service or have less than 2,500 passenger boardings (49 USC 47102(8). Approximately 88 percent of airports included in the NPIAS are general aviation airports”. NPIAS is the National Plan Integrated Airport System (FAA) . The airport is included in this plan as a “Walter J. Koladza General Aviation Airport” since 2008 an inclusion that required a “public willing sponsor” and my property.

To date I have not been able to obtain any Plans or information from the Town, Mass. DOT Aeronautics Division or the FAA, other than a hard time.

12) Runways: KGBR has a single paved runway that is 2579 feet long.

13) KGBR is a “Community/Business Airport and that KGBRs community role establishes the Facility and Service objectives at the airport” this statement is directly followed on the next page by Figure 3-13 from the Mass. Statewide Airport System Plan.

Page 3) Facility and Service Objectives -Community /Business Airport Criteria and Minimum Objective lists a runway length requirement for a Community /Business Airport as a minimum of 3200 feet or greater. This is an expansion that would require numerous other properties and my written notarized authorization to use my piece of an airport which extends two hundred feet (200) from the usable take off or landing area end of Runway 11 that cannot be taken by eminent domain, that I maintain under an Order dated March 20th 2015 from the Mass. DOT Aeronautics Division under Mass General Law C.90 ordering me to maintain the end of runway 11 with photos attached which I did and did prior to this Order, something B.A.E. refuses to acknowledge or compensate me for.

To date there is no established role of this piece of an airport as claimed. Figure 3-13 under Landslide Facilities list the Terminal /Administration Building in the 3.4 million dollar Phase 1 that was due to commence in 2017.

Page 4) Zoning Applicability states “The Zoning Bylaw applies to the property as it is an aviation field located in an R-4 zone” and claims “the use is permitted with the issuance of a Special Permit which is the purpose of this application, it claims the work limit is not within the floodplains.

The use is not permitted by special permit only, and is not permitted in what was designated as the “Water Quality Protection Overlay District Section 9.2” of the Zoning Bylaw by avid pilot Betty Vigneron, married to avid pilot Dr. Vigneron, parents of the late avid pilot and airport owner Tom Vigneron to avert what B.A.E. is attempting to accomplish and has been since the estate was settled Feb. 2008, to establish and expand themselves in the WQPOD specifically the Upper Wellhead Public Recharge Protection Area Zone 11 as a municipal airport without any transparency.

Rick Solan stated at the recorded 6/17/2017 Selectmen's hearing for a Special Permit "I've been trying to do this since 2008". Do what Rick, don't you think it's time to disclose your intent?

Are you referring to the Feb. 12th 2008 request to a local Attorney from your piece of an airport for "a plan for the division of the business and the real estate in two"? The Attorney documented you could do this if both entities and I quote "assuming, of course, that you conduct all business and operate the entities in compliance with the law" and they are not and you know it, have always known it and is the subject of you, your establishment, neighbors, certain individuals and public officials abuse of me violating my rights since Feb. 2008 because your where not content and **made a mess of what you were given** and I have something wanted for personal, political and financial gain.

This document has "division" underlined and has written in "P.B. hangar - really for subdivision".

On **July 23rd 2020** the **Planning Board** held a site plan review hearing that was not open to the public. Mr. Scalise presented partial plans "Prepared for Great Barrington Airport", there were two sets of plans, for subdivision and the two parcels involved. Mr. Scalise stated "might make sense to delay site plan review until a special permit is granted" and the Planning Board Chair agreed. On a motion made by the Town Planner Assistant Town Manager Mr. Rembold that is completely contrary to the contents of Mr. Scalise's special permit application, the Board made a positive recommendation to the Selectboard anyway?

This is 4 months after **March 20th 2020**, the date the special permit application was submitted that **includes a Site Plan Review** in part on pages 16 - 22, that states "each objective supported a positive determination from the Board".

The plans Mr. Scalise presented need to be disclosed before the Aug. 10th 2020 meeting.

You are also referring to the 2008 inclusion of your piece of an airport in the Mass. Statewide Airport System Plan (State) and the National Plan Integrated Airports (FAA) as a "Walter J. Koladza Gt. Barr. Regional Community Business General Aviation Airport" inclusions that included my piece of an airport that would have required my written authorization for you to use.

9.2.11 Nonconforming Uses: Continuation of a legally preexisting nonconforming use shall be allowed provided that:

1. The nonconformity shall not be increased or expanded, and Mr. Scalise responds "the replacement of underground tanks did not increase the nonconformity"? Underground tanks are not a use, they are an accessory and the replacement of the under ground tanks was mandatory, the use would be an airport and establishing an airport would increase the

nonconformity. The airport is not “legally pre existing nonconforming” and cannot increase or expand. **Page 5) WQPOD 9.2.12 Uses and Activities requiring a Special Permit**, The following uses and activities are permitted only upon the issuance of a Special Permit by the Selectmen,

1.Enlargement or alteration of existing uses that do not conform to the WQPOD.

Mr. Scalise response is “Existing use conforms to the WQPOD”? Sir you have been documenting the airport as nonconforming, you are now stating a piece of an airport that has never been permitted and can’t conform to the WQPOD Upper Wellhead Public Recharge Protection Area Zone 11 conforms to the WQPOD, are you serious? You then state the “proposed use cumulatively has 11.4+ acres of impervious area” and on page 18 you state “The project design includes stormwater management for the 7.8 acre portion of the site that is being improved under this application” is conflicting, is something else going on? Mr. Scalise then states “Construction, if permitted complies with and cites ,

Section 9.2.7

#6 Any use permitted in the underlying zoning district, subject to other requirements herein;

#8. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited too, wells, pipelines, aqueducts, and tunnels; so maybe something else is going on?

Mr. Scalise then cites the use is a Very Small Quantity Generator according to USEPA (United States Environmental Protection Agency) Guidelines and cites the exemption for a VSQG under Section 9.2.8 of the WQPOD for such generator to generate, treat, store, or dispose of hazardous waste, this applies to my 78 E.P.R. property documented in the 2003 SWAP Report written for the Gt. Barr. Fire District who own the water rights out here in the WQPOD, that documents the airport with underground fuel tanks and also as the Greatest concern to the WQPOD in Gt. Barr. The Fire District is chaired my Mr. Atwood who in his brief stint as Selectmen ordered the cease and desist against us in Jan. 2010.

Page 6) GENERAL ZONING REQUIREMENTS states The Great Barrington Airport is in the R-4 Zoning District is misleading, once again there is no legal airport at 70 E.P.R. and what is at 70 E.P.R. is in the Water Quality Protection Overlay District Upper Wellhead Public Recharge Protection Area Zone 11.

Mr. Scalise then cites,

SECTION 5.0 NONCONFORMING USES AND STRUCTURES

5.1 Applicability, ”the lawful use of the existing buildings pre-date the adoption of the zoning bylaw. Continued use since the 1920’s is satisfactory to meet the exemption in Section 5.1 of the bylaw”.

The buildings visually do not predate the adoption of the 1932 Zoning Bylaw but more important is the content of Section 5.1 which is being omitted in relation to being quote “exempt” which states in part “This Zoning Bylaw shall not apply to structures or uses “lawfully” in existence or “lawfully begun”. Such prior, “lawfully preexisting nonconforming uses” and structures may continue, provided that no modifications of the use or structure is accomplished, unless authorized hereunder. The key words here are “lawfully preexisting nonconforming”, the airport is not and cannot be “lawfully preexisting nonconforming”, they are a piece of an airport that has also not been in continual use, changed hands several times including foreclosure before it was developed with an activation date of April 1942 by Selectmen James F. Tracy who never obtained a special permit to operate, either did Walt Koladza.

Also omitted entirely is Section 5.2 Nonconforming Uses; which states,

The Zoning Board of Appeals may award a special permit pursuant to Section 10.4 to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

The airport is in the WQPOD and has to file under Section 9.2. clearly even if it could file under Section 5.0 NONCONFORMING USES AND STRUCTURES establishing an airport especially based on this Permit Application in this neighborhood is would be highly more detrimental.

Page 7) starts out with a “early zoning map from 1932 with a corroborating county road plan 1939 Section neither of which are legible.

6.3 GENERAL LANDSCAPING REQUIREMENTS

6.3.1 **Applicability.** The requirements of this section shall apply to any nonresidential use.

6.3.2 **Landscaping Requirements,** some combination of planting shall be installed in the following locations and states in part,

1) Property line(s) which also bound residential districts shall be screened from nonresidential uses by means of planting.

Mr. Scalise response is “The proposed project does not include any new activity near or in proximity to the neighboring residential properties. The nearest residential property is located to the west. The westerly end of the runway has a prohibition for installation of obstructions to aircraft including trees and cites a FAA Object Free Area. No further action is required in this area of the property”, the westerly end of the runway is mine and is not residential.

Page 8) Mr. Scalise your diagram Table 3.2 documents FAA Standard Object Free Zone as, 300 feet from the runway end, a Runway Safety Area (RSA) beginning 300 feet from the end of

the runway, and the Runway Protection Zone (RPZ) as 700 feet wide and 1000 feet in length. FAA documents an airport ending 200 feet (60m) from the usable take off and landing area and I own 200 feet off the end of runway 11.

You then claim "The project drawings designate landscaping outside of the operation safety standards". Refer to the project drawings (Site/Landscape Plan). There is no "project drawings or Site /Landscape Plan but "landscaping outside the operation safety standards" involves properties that do not belong to B.A.E.

6.3.2 2) Any accessory receptacle or structure with a holding capacity of one hundred (100) cubic feet for temporary storage or solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk and similar waste items shall be screened, in accordance with this Section, from all adjacent premises and streets from which it would be otherwise visible.

!00 cubic feet equates to 748 US gallons, of solid or liquid waste? In the WQPOD?

Mr. Scalise responds "The airport currently is compliant with the USEPA requirements for storage and handling of very small quantities of oil and hazardous materials", information from the USEPA is copied below.

You then document the airport as a Conditionally Exempt Small Quantity Generator (CESQG), the List of Mass. Hazardous Waste Generators documents Berkshire Aviation Enterprise as a VSQG, Very Small Quantity Generator which can generate no more than 220 lb. (26.4 us gals) of hazardous waste per month and 2.2 lb. of acute hazardous waste, and also listed with the State as a Very Small Quantity Generator (VSQ). A VSQ can generate up to 2200 lb. (264 us gals) of hazardous waste and 2.2 pounds of acutely hazardous waste in a calendar month. This Generator status was put in place to accommodate the recycling plan for the Koladza Great Barrington Regional Airport. A SQG must comply with the hazardous waste manifest requirements and must manage hazardous waste in tanks or containers. There must always be at least one employee and an emergency coordinator available to respond to an emergency. A VSQG can upgrade to a SQG which can upgrade to a LQG, Large Quantity Generator.

You state the "Facility is properly and adequately regulated" and I am stating for the record in this sworn affidavit based on personal knowledge, that you are documenting and attempting a "land taking" of 78 E.P.R. property and its rights documented in the 2003 Federally Mandated Source Water Assessment Program Report in **APPENDIX B; "REGULATED FACILITIES WITHIN THE PUBLIC WATER SUPPLY PROTECTION AREA DEP Permitted Facilities"**, with a Permitted Activity of VSQG, Very Small Quantity Generator, with an Activity Class of Hazardous Waste Generator with a Facility description of Auto body/Repair. The other permitted Facilities are Simon's Rock and the Egremont Transfer Station and DPW. I have documentation from the

DEP visiting 78 E.P.R. ensuring compliance. I Claudia Shapiro have a DEP Permitted Regulated Facility, I am the one with an approved Paint Booth, not the airport, they are illegal.

This Report documents B.A.E. as having underground fuel tanks, period. It also documents the airport as the biggest concern in Gt. Barr. to the WQPOD Zone 11 so any attempt to claim this expansion is not more detrimental to the neighborhood under Section 10.4 of the Zoning Bylaw if that was the appropriate Section to file under is futile.

You stated at the Oct 30th 2019 Airport meeting I was intentionally not invited to regarding the airport having a hazardous waste permit "I'm sure they are VSQG and there is Federal RCRA". That is the Resource Conservation Recovery Act which promotes community source reduction and beneficial reuse and is in part the intent of this development plan and is the recycling plan you stated the KGBR has that will generate the town compensation.

The airport was not a CESQG, a VSQG, or a SQG in 2003 when the SWAP Report was written for the Gt. Barr. Fire District or in 2010 when the Town added the definition of a VSQG as any entity public or private other than residential to Section 9.2 WQPOD of the zoning bylaw, eliminating obtaining such permit or the entire WQPOD could commercialize. The Public Recharge Upper Wellhead Protection Area Zone 11 is the wrong place for hazardous waste in this capacity and there is no place in the WQPOD for Acute Hazardous Waste.

The following **page 9**) states "if you generate no more than 220 lbs (100kg) of hazardous waste per month, you are a Conditionally Exempt Small Quantity Generator (CESQG). 220 lbs equates to 26 U.S. gallons which is a far cry from the 748 gallons cited and a farther cry from the 264 gals. B.A.E. is claiming they have a right to have.

Mr. Scalise then states "The other portion of the bylaw requirement is the enclosure of trash receptacles namely the onsite dumpster". Refer to the project drawings for the location and details of the dumpster enclosure but no project drawings or details are included in this special permit application but "trash receptacles" sounds in part like the "KGBR Recycling Plan" Mr. Scalise claims the airport has but failed to disclose the Plan.

There is a photo of two recently installed above ground 1000 gallon propane tanks that states in part quote "The following photograph(s) of outside equipment have been identified and will be appropriately screened" under Section 6.3.1 and 6.3.2. There is one photo and it is a view directly from my back yard, the "west end property" is mine and it is not residential.

Mr. Scalise you are intentional documenting my property inaccurately to put it mildly.

In 2010 the town added a definition of a VSQG to Section 9.2 WQPOD as "any entity public or private other than residential", commercializing 78 E.P.R.

Page 10) states "The design category for the KGBR is a "11-B" aircraft and cites a Cessna -441 Conquest that happens to be a plane owned by an airport owner that is housed at Columbia County Airport because it is too big to land here that requires unleaded fuel.

There is a photo that states “The property currently has a small dumpster, and propane tanks located behind the existing hangar building but the building is not the building located at 70 E.P.R. B.A.E., it is located at the North Plain Road site.

Page 12) Section 10.4 SPECIAL PERMITS (the airport is filing under) refusing to file under the appropriate Section 9.2 Water Quality Protection Overlay District.

Section 10.4.2 Criteria of the zoning bylaw states in part “Special Permits shall be granted only upon a written determination that the adverse effects of the proposed use will not outweigh its beneficial impact to the town or the neighborhood lists 6 criteria’s,

10.4 2 #1) Social, economic or community needs which are served by the proposal.

a) Local Economy

“The airport currently has 12 employees” is a far cry from the 38 claimed in 2013 and the 56 claimed in 2019 in the Mass. Statewide Airport Economic Impact Study.

b) Community Programs and Events

“Hosted Events; The Rotary Fly-In which is a MSASP recommendation to “garner public support” along with joining the Chamber of Commerce. It mentions a Pancake Breakfast Fly-In and a Drive for Homeless Center (Thanksgiving)?

Page 13) “The following slides were prepared and presented at a neighborhood meeting in advance of this application. The slides are copied below in support of the criteria. Airport success benefits community, Mass. DOT Statewide Airport System Airport Economic Impact Study Update”.

I was intentionally not invited to the neighborhood meeting and would have challenged then and am challenging now any inclusion of this illegal piece of an airport in the Mass. Statewide Airport System Plan. “Airport success” violates including but not limited too, the sole source aquifer, the Green River, Chapter 168 Gt. Barr. Wetland Zoning Bylaw, the Wetland Protection Act, my property rights, my rights and rights of other abutters.

The Mass. DOT Aeronautics Division has been steadfast in their refusal to speak with me or respond to any Record Request submitted regarding any aspect of this airports inclusion in their Plan and I can now see why.

Page 14) 10.4.2 #3) Adequacy of utilities and other public service states,

“The Walter J. Koladza Airport does not utilize public utilities”. The airport does not have potable water and do they really have a Septic System to accommodate a Community Business Regional Airport in a Public Recharge Area? When a nonconforming use gets a Special Permit they have to come into compliance, the utilities at B.A.E. do not accommodate a commercial airport but I do see an Illicit Discharge statement that states “**The Stormwater and Sewer System for Gt.Barr. Airport**”?

#4) Neighborhood character and social structures states,

“The airfield and surrounding open space included on the 87.7 acre property included under airport ownership constitutes most of the neighborhood context? This is not true, how many properties are being claimed? It goes on to state “Surrounding uses are agricultural and residential in nature, The property is surrounded as follows”:

North: Green River and forested riparian corridors

South: Egremont Plain Road and 75 acre agricultural field and residential properties, vague description, falsely claimed on page 1) that the facility is located along Egremont Plain Road and at the corner of Seekonk Cross Road.

East: Seekonk Cross Road and Beebe ARP a handful of residential properties, in inaccurate, East is also a 200 foot piece of an airport B.A.E. does not own followed by the RSA and RPZ.

West: Residential properties with frontage along Egremont Plain Road”, this is false, misleading, a misrepresentation of fact, The property to the west is my piece of an airport made commercial by the Town of Gt. Barr. in Section 11 Definitions of the Zoning Bylaw in 2010 of a VSQG.

Page 15) “The hangars include a development area on the opposite side of the runway from Egremont Plain and east of the existing hangars” sounds like both sides, as the existing hangars are on the opposite side of the runway as the proposed hangars. It states “the hangar location was carefully chosen” is real B.S. I am putting the Town, airport and neighbors on notice of the following,

These hangars are being constructed 200 feet from the annual mean high of the Green River and are violating the 500 foot Green River moratorium that has not been changed to 200.

I have a document dated Feb.14th 2014 from Fennick and McCredie Architecture Ltd. in conjunction the Mass DOT Aeronautics Division that summarizes the findings of a visit to the airport regarding the Statewide Airport System Plan Administration Building that states “cannot build on other side on runway”.

I also have correspondence dated Feb. 9th 2016 and March 3rd 2016 between the Mass DEP, the Gt. Barr. Assistant Town Manager and Community Town Planner Mr. Rembold and Mr. Hankin, the 32 year Planning Board veteran, land abutter of the airport and 78 E.P.R., real estate agent and permanent Award winning Master Plan member who’s residence lies within the WQPOD Upper Wellhead Public Recharge Protection Area Zone 11. It is requesting proposed amendments to the WQPOD Section 9.2 specifically,

Section 9.2.9 Prohibited Uses; Stream and Lake Protection Zone. The following uses are prohibited in the Stream and Lake Protection Zone.

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

Section 11 Definitions. Stream and Lake Protection Zone as “1) The land within five hundred foot lateral distance of the bank of the Alford Brook and Seekonk Brook when directly tributary to the Green River and the Green River itself upstream of the water supply gallery”. The entire airport property is “upstream of the water supply gallery” located on Hurlburt Road.

Mr. Hankin’s comment to Mr. Rembold’s modification request of Section 9.2.9 is quote “Disagree, delete entire Section 9.2.9. I think we already provide adequate protection. What are we really protecting at the expense of the property owners use of their land”. That certainly never applied to my property, but did for your neighbors farm you “helped save” with a solar field that has no livestock whose property happens to abut the airport, the owner of which also happened to take flying lessons.

Mr. Rembold justified the removal of section 9.2.9 and the Definition in Section 11 by stating the “River Protection Act does the job” and also cites “the local Wetland Bylaw Chapter 168 revised and adopted at the 2015 Annual Town Meeting includes protection over the Rivers Protection Act and Wetlands Protection Act” and states “see underlined portion below”, and has underlined “Except as permitted by the Conservation Commission or 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 that is a public or private water supply. So there you have it Mr. Hankin and Mr. Rembold acknowledge there is a 500 foot moratorium on the Green River and know this is the Conservation Commissions jurisdiction. The 200 foot moratorium you both are referring to was 300 feet and applies downstream of the water supply gallery located on Hurlburt Road. There are numerous safeguards protecting the “500 foot moratorium upstream of the water supply gallery” documented with explicit detail in this sworn affidavit.

Page 16) #5 Impacts on the natural environment; and,

”Potential impacts on the environment followed the Mass. Guide to Conservation Commissioners as it relates to resource areas is more B.S., he claims this “approach avoids permitting requirement under the Water Quality Protection District standards set by the Great Barrington Zoning By-Law. This application does not follow the Mass. Guide to Conservation Commissioners, does not avoid filing under Section 9.2, and is the jurisdiction of the Conservation Commission documented in detail in this sworn affidavit.

Mr. Scalise claims “The process included a detailed wetland resource area delineation and the project avoids any work in the Natural Heritage Endangered Species (NHESP) Polygon”, there is a Heritage Polygon Map included in this application but the line designating the hangar

area has been changed and is carved around the hangar site and differs from the plat I have as does the PH number.

Page 16) 10.5 SITE PLAN REVIEW

Mr. Scalise your response is “The project as proposed includes an application for a USE Special Permit for the continued use of KGBR? Continued use of Koladza Gt. Barr. Airport? Is that not what you are attempting to permit now? Furthermore a Use Permit is not a Site Plan Application which requires written approval from the Planning Board that is not included in this application that must show in part,

10.5.3 Submittal Requirements.

1) Plot plan of the entire tract, signed by a licensed surveyor or engineer, drawn to scale clearly portraying the following,

- a) Lot layout and dimensions.
- e) All existing or proposed structures on the property
- o) Copy of the Gt. Barr. Zoning Map indicating the location of the property

10.5.4 Waiver of Submittal Compliance.

The board may, upon written request of the applicant, waive any of the submittals requirements of section 10.5.3 where the project involves relatively simple plans or constitutes a minor site plan.

Mr. Scalise goes on to state “The Site Plan Review process resulted in the development and study of the details of the hangar project. This document along with the attachments satisfies the submittal and application requirements for a site plan approval under the By-law”? What document, what attachments, what study?

Mr. Scalise then states “Further, the requirements for a traffic impact assessment has been determined to be unnecessary and, should it be an issue of interest by the Board, we hereby request a waiver from same? Traffic Impact Study is a submittal requirement of Site Plan Review and waivers apply to “simple plans and minor site plan”, this is not simple or minor. A Traffic Assessment shall be performed by a certified traffic engineer in accordance with the Mass. Executive Office of Energy and Environmental Affairs, Division of Transportation Guidelines for Traffic Impact Assessment, an assessment would expose transparency to the true intent of this application.

It states “the proposed project will not generate any new traffic”. An extended runway that has a minimum requirement of 3200 feet for a Walter j. Koladza Gt. Barr. Regional Community Business General Aviation Airport will not generate any new traffic?

10.5.5 Approval. Mr. Scalise states “The objectives outlined herein have been copied with information provided for each supporting a positive determination by the Board”. There are no

Planning Board recommendations included but do have a Recommendation dated March 12th 2010 from the Planning Board regarding the shop located at 78 E.P.R. I did not know at the time was legal that states, "The Planning Board respectfully submits that it supports strict enforcement of the prohibition of commercial uses in the R-4 district" but supports a dimensionless expansion plan based on this substantially flawed application that lacks transparency in the WQPOD? The Recommendation goes on to states "The Planning Board believes the 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".

Intense commercial use? Is not a dimensionless development plan for a Koladza Great Barrington Regional Community Business Airport with no Deed Recorded in the Registry involving two properties a more intense commercial use than what transpires on my 78 E.P.R. property? At the exact same time the Zoning Bylaw codification was in full swing, a provision for a Motor Vehicle Repair Operation was added to the WQPOD Section 9.2?

Section 10.5.9 Appeal states "any decision by the Board pursuant to this Section shall be appealed in accordance with Chapter 40a s.17 to a competent court of law.

Mr. Scalise documents "The objectives outlined herein have been copied with information provided for each supporting a positive determination from the board. You have 20 days to appeal a Planning Board decision so that time frame has conveniently lapsed, furthermore what were you doing with the Planning Board on July 23rd 2020 holding a Site Plan Review 4 months after submitting an application that has not been acted upon? The hearing was delayed until after the special permit hearing yet the Board made a positive recommendation anyway? On what? All those Plans you are keeping from me? These Plans need to be disclosed before the Board of Selectmen hearing.

Page 17) Background

Mr. Scalise states "This document along with the attachments satisfies the submittal and application requirements for a site plan approval under the By-Law. What documents? What attachments? What application? Site Plan Review is mandatory and yours is incomplete. There is no Site Plan Application but again, you went before the Board on July 23rd 2020 for Site Plan Review?

There is a picture of the "proposed hangars" that is completely different than the previous plans presented at the Oct. 30th 2019 airport meeting.

Page 18) Outlined Objectives

1) c Wetlands: The project planning includes the mapping of existing delineation of wetland resource areas jurisdictional under the Mass. Wetland Protection Act. It goes on to state " The project has been carefully designed to avoid work or activities in any resource area or their buffer zones" There is no map included of "existing delineation of wetlands".

Mr. Scalise, Town of Gt. Barr. B.A.E., immediate and not so immediate neighbors I am putting you all on notice of the following,

As the leader in laws that protect wetlands, rivers and waterfront Massachusetts has some of the strictest and farthest reaching wetland regulations and environmental codes in the U.S. Simply put you cannot do anything, not clear, cut, fill, dump (not even leaves, grass clippings or dirt), alter, grade, landscape or build upon - any wetland resource area without a permit from your local town Conservation Commission.

The Conservation Commission confirmed to Mr. Scalise this property is not their jurisdiction?

310 CMR 10:00 Wetlands

310 CMR is promulgated by the Commonwealth of Mass. DEP pursuant to the authority granted under the Wetlands Protection Act M.G.L. c.131 s.40. 310 CMR shall have the force of law.

PURPOSE: M.G.L. c.131 s.40 sets forth a public review and decision making process by which activities affect areas subject to protection under M.G.L. c.131 s.40 are to be regulated in order to contribute to the following interest,

- 1) Protect public and private water supplies
- 2) Protect ground water
- 3) Protect wildlife habitat

Town of Gt. Barr. E Code 360 Zoning Manuel

Chapter 217 Article 111 Wetlands Protection Regulations states,

PREFACE: These wetlands Protection Administration Bylaw Regulations are promulgated by the Commission pursuant under the authority granted to it under Chapter 168.

PURPOSE: The Wetlands Regulations will be used to implement and enforce the Wetlands Bylaw and are intended to read together with the Wetlands Bylaw.

INCORPORATION OF STATE REGULATIONS: All definitions, resource areas descriptions, procedures and requirements set forth in the Mass. Wetland Protection Regulations of Commonwealth of Mass. Regulations 310 section 10:00 and are hereby incorporated and made a part of these Wetland Regulations.

PURPOSE AND PROTECTED INTERESTS;

The purpose of these Wetland regulations is to aid in the consistent and effective implementation of the Wetlands Bylaw by way of further definition. The wetlands bylaw protects the wetlands, related water resources and certain adjoining land areas in Town by providing for prior review and regulation of activities deemed to have a significant cumulative adverse effect upon wetland values, including but not limited to the following interests,

- A. Protection of public and private water supplies and quality
- B. Protection of groundwater supply and quality

AREA SUBJECT TO PROTECTION AND REGULATIONS

RESOURCE AREAS: Lake, river, pond or stream that is a public or private water supply and land area within a five hundred foot distance of said lake, river, pond or stream.

Land within a five hundred foot distance of the Green River upstream of the water supply gallery on Hurlburt Rd. See 217-14.5, the airport, my property, Mr. Hankins property, and the neighborhood in its entirety is “upstream of the water supply gallery”.

217-14 Areas subject to protection and regulations (jurisdiction)

217-14-1 **RESOURCE AREAS:** The following areas, which are referred to as “resource areas” are subject to protection under the Wetlands Bylaw.

B. River or perennial stream, or any land under said waters, or any land within a two-hundred foot distance of said river and perennial stream.

D. Lake river pond or stream that is a public or private water supply, and land area within a five-hundred foot distance of said lake, river, pond or stream.

E. Land area within a five-hundred foot distance of the Green River upstream of the water supply gallery. See 217 14.5

217 -14.5 GREAT BARRINGTON DRINKING WATER SUPPLY AND UPSTREAM TRIBUTARIES.

A. The Town of Gt. Barr. recognizes that protection of its public and private water supplies are imperative to the quality of drinking water. The town policy is expressed through Section 9.2 “Water Quality Protection Overlay District” of the Gt. Barr. Zoning Bylaw. The Commission will administer the Wetlands Bylaw and these Wetland Regulations in concert with the requirements of the Stream and Lake Protection Zone of the Water Quality Protection Overlay District as defined in the Zoning Bylaw. (The Stream and Lake Protection Zone Section 9.2.9 and Definition was intentionally removed in 2016 from the Gt. Barr. Bylaw aforementioned on page 14).

B. **Section 9.2** of the Zoning Bylaws regulate work within a five-hundred-foot distance of the Green River and its upstream tributaries of the water quality supply gallery. Accordingly, these regulations protect the Great Barrington drinking water supply and its upstream tributaries. This five hundred foot distance was also intentionally removed from Section 9.2.

Upstream tributaries to the **Water Supply Gallery of the Green River** include Alford Brook, Seekonk Brook and Long Pond Brook.

Section 217-16; Applications for permits states “Within 100 feet horizontally outward from the edge of a resource area. 200 feet horizontally outward from the mean annual high

water line of a river or perennial stream, and **within 500 feet of the town water supply galleries at the Green River**, Long Pond and any other bodies of water utilized as Town Drinking Water.

Conservation @ town of gb.org Gt. Barr. Conservation Commission,

FUNCTION: The 1957 Conservation Commission Act authorized each city and Town in Mass. to establish a locally appointed municipal agency to plan for natural protection, acquire important land and water areas and manage these properties for conservation and passive recreation. It is the work of the Gt. Barr. Conservation Commission Act to locally administer the Wetlands Protection Act, Mass. General Law Ch.131 s. 40, the Rivers Protection Act and the Gt. Barr Wetlands Protection Bylaws (Ch.168). The purpose of the regulations is to protect public and private water supply and ground water supply. The regulations prohibit any filling, excavation or other alteration of the land surface, water levels, or vegetation in or near wetlands, without a permit from the local Conservation Commission. Our responsibility is to review project plans, including construction, and any activity within 100 feet of a lake, pond, vegetated wetland, or intermittent stream, within 200 feet of any perennial river (except any river, lake or pond that is a public or private water supply, where the set back is 500 feet.

Town of Gt. Barr. Wetlands Protection Bylaw Chapter 168 WETLANDS

168.1 Purpose The purpose of this bylaw is to protect the wetlands, water resources, and adjoining land ares in the Town of Gt. Barr. by controlling activities deemed by the Conservation Commission likely to have an accumulative effect upon resources and values, including but not limited to the following, public and private water supplies and ground water.

JURISDICTION: Except as permitted by the Conservation Commission or provided in this bylaw no person shall remove, fill, dredge, build upon, discharge into, or otherwise alter the following resource areas "land within 500 feet of any lake, pond or river that is a public water supply and land within 200 feet of any lake or pond that is a tributary to any public or public water supply. The Green River is not a lake or pond and is what flows beneath the airport, my property and the entire neighborhood. The entire WQPOD Zone 11 is not that big and needs to be protected.

168.2 Except as permitted by the Conservation Commission or as provide in this bylaw, no person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following wetland resources areas: pond; river; creek; intermittent stream; water within water bodies and land under water bodies; land subject to flooding or inundation by groundwater, surface water, or storm flowage; and the following lands abutting wetlands resource areas; land within 100 feet of any freshwater wetland, marsh, wet meadow, bog, swamp, vernal pool, bank, reservoir, lake, pond or intermittent stream, (hereinafter "buffer zone"); land within 200 feet of

the mean annual high water line of perennial rivers or streams (hereinafter “riverfront area”) and land within 500 feet of any lake, pond, river or stream that is a public or private water supply; and land within 200 feet of any lake or pond that is a tributary to any public or private water supply (collectively, the “wetlands resource areas protected by this chapter”).

At the airport meeting held Oct 30th 2019 I was intentionally not invited too but conflict of Interest Mr. Hankin was, asked Mr. Scalise twice “so in your professional opinion these hangars do not trigger the WQPOD and Mr. Scalise responded “ no, not the modest size of this development project” this is opinion not fact, or law, and is ridiculous, this is not about hangars, it is about **establishing the airport and establishing an airport triggers the WQPOD.**

On Sept. 21st 2010 B.A.E. applied for one temporary hangar to house a body shop that the Gt. Barr. Building Commissioner Mr. May documented “required a special permit to construct or expand use in Zone 11 W.Q.P.O.D. 9.2.12 Uses and Activities requiring a special permit,” Section 9.2.9 #3 Motor Vehicle Repair Operations.

Furthermore it is difficult to decipher the true intent of the this application due to the lack of transparency.

Page 18) states “the 7.8 acre portion of the site that is being improved under this application” yet page 6 states “ the proposed use cumulatively has 11.4 acres of impervious area” and states the property includes 91.3 acres of land area despite B.A.E. being 87.7 acres.

There is nothing in all these blatant resource violations that are going to improve any acreage.

Page 19) states the “KGBR” has implemented unleaded fuel” which is great but these planes don’t use unleaded fuel, bigger planes like the Cessna -441 Conquest mentioned in conjunction with the Community Business Airport required runway length minimum of 3200 hundred feet do.

Water; “Water quality issues are related to stormwater runoff” is false, misleading and a misrepresentation of fact, this entire development/expansion sits directly upon the Town of Gt.Barr. sole source aquifer and the WQPOD Upper Wellhead Public Recharge Protection Area Zone 11. It goes on to state,

“The state of Mass. has strict and complex standards for managing runoff near sensitive wetland areas while not required. State regulation only pertain to projects located in areas jurisdictional under the Wetlands Protection Act. I just documented this project falls under the jurisdiction including but not limited of the Wetlands Protection Act.

Page 20) #2. states “Pedestrian safety is limited to access of the terminal area. The reorganization of existing parking fields and their location adjacent to the terminal building provides for safe pedestrian access to the terminal. Otherwise the airport security fencing and

signage provide support to ensure pedestrians are not walking in aircraft use areas. What terminal building? Security fencing is mandatory for a Regional Community Business General Aviation Airport.

#4."The project use includes aircraft storage and vehicles parking along North Plain Road. The landscape plan, which is not included, proposes screening of this area along North Plain Road", and shows a picture with an arrow marking the location but the picture is not in my backyard, it is on North Plain Road. How are planes getting from North Plain Road to Egremont Plain Road?

There is a picture on page 10) of a small dumpster and storage shed, the storage shed is also not located at B.A.E. and is located at 180 and 190 North Plain Road, property the Gt. Barr. Fire District purchased in 2017.

Page 21) 7. Minimize contamination of groundwater from onsite waste-water disposal systems or operations on the premises involving the use, storage, handling or containment of hazardous substances and Mr. Scalise responds,

a) "The existing terminal has both onsite septic and well water supply" is false, the airport has no potable water and a residential sewer for a Community Business General Aviation Airport in an aquifer? That is gross, as an Engineer, Mr. Scalise you must know the ramifications of such. Does this meet the Gt. Barr. Board of Health regulations?

b) "The proposed hangars will have no water or sewer" but it looks like the hangars are going on North Plain Road and I see an unsigned Illicit Discharge statement in this application that states "The Stormwater and Sanitary Sewer System prepared for the Great Barrington Airport located in Great Barrington Mass." with no address.

This looks like what it is, it is the zoning provisions added to the WQPOD in 2010 for a Recycling Program and for a municipal airport.

8. Claims the applicant proposes a global view of parking and associated landscaping on the project site. Proposes a global view? When?

Page 22) states "The Great Barrington Airport is considered a general aviation airport". This is defined as a public use airport, is false and intentional, B.A.E. is a piece of a private airport that cannot eminent domain any surrounding properties, this classification of "Public Use" is a requirement for eminent domain and is an intentional move to open the floodgates.

Page 23) Conclusion states "KGBR is not eligible for government grants" is also misleading, the airport has received ASMP funding specific to the State of Mass. and had to furnish a Layout Plan and Dimensions of the boundaries I could never retrieve from the DOT Aeronautics Division through Mass Record Requests. Government Grants will apply **if the airport receives a Special Permit as the airport would then have to come into compliance to FAA standards.**

“Fee and Rental hangars” are an obligation in the ASMP Grant Assurances.

MASSDOT INFORMATION 1 Page

It is illegible but does state up top “Land use code 22” and “Land Use Description General Aviation Airport”. A General Aviation Airport is how B.A.E. is listed in the FAA National Plan of Integrated Airports. Mr. Scalise documented on page one “The goal is to obtain a land use permit”.

STORMWATER REPORT

TABLE OF CONTENTS Not 1 page in this Section is numbered leaving for removal and or addition of paperwork, and is not acceptable.

SECTION 1.0 Project Narrative

1.0 Project Narrative and the page is blank. There is no project narrative and goes right into,

1.1 SITE DESCRIPTION /WATERSHED

“The existing property s comprised of 91+ acre parcel of land. The property is currently the (GBR) Great Barrington Regional Airport The stormwater analysis has been prepared in support of a site plan review of a proposal to construct aircraft hangars and associated taxiways. This is hardly a site description and aforementioned there is no “site plan review” to date included in this special permit application.

1.3 POST-DEVELOPMENT DRAINAGE CONDITIONS

Standard #4 Water Quality

“The site is not a land use with higher potential pollutant loads” is a bit much.

1.4 STORMWATER MANAGEMENT STANDARDS

“A Stormwater Report prepared to meet the Mass. DEP’s Stormwater Management Standards is not required for this project due to the absence of wetland resource areas”. Mr. Scalise you have no respect for the land or the natural resources and that for me is a culture clash, I recently put you on notice that you intentionally stripped 195 St. Rd of the rights of auto body/ auto repair in 2007 and replaced them with brake jobs and oil changes, rights the former State Building Commissioner helped me restore back in 2012. Now you are not being forthright in regards to the true intent of your proposal in relation to my 78 E.P.R. property and are violating my civil, constitutional and federal rights as a Tax paying American citizen.

Standard #5 Land Uses with Higher Potential Pollutants Loads

“This does not apply to this report”

Standard #6 Critical Areas

“This does not apply to this project”

Standard #8 Construction Period Controls “

A NPDES Stormwater Pollution Prevention Plan is required to be filed on sites disturbing more than one (1) acre of land.

A NPDES plan will be filed prior to construction” and claims this standard has been met.

A Stormwater Pollution Prevention Plan (SWPPP) is a site specific written document signed by a company executive that (1) identifies all activities and conditions at the site that could cause water pollution and (2) details the steps the facility will will take to prevent the discharge of any unpermitted pollution. Activities that need my written notarized approval.

A SWPPP is a required step for facilities seeking to obtain a National Pollutant Discharge Elimination System (NPDES) Permit.

National Pollutant Discharge Elimination System (NPDES) Permit

If you discharge a pollutant from a point source into the water of the United States you need a NPDES Permit. If you discharge pollutants into a municipal stormwater system you may need a NPDES Permit depending what you discharge. Discharge into a municipal stormwater requiring a NPDES Permit include incinerator ash, solid waste, any type of municipal or industrial waste, sewer sludge, hazardous waste, chemical waste, and garbage.

NPDES administration procedures require that the public be notified and allowed to comment on the NPDES permit application.

Mr. Scalise you just documented a NPDES Permit is required on sites disturbing more than 1 acre on land. That is not the required reason for filing a NPDES Permit as I just documented. What is going on in these storage of aircraft hangars that require a NPDES Permit? Is it the provisions added in 2010 to the Zoning Bylaw WQPOD Section 9.2 for a Recycling Program you stated the Koladza Great Barrington Regional Airport had? Is it also for the Motor Vehicle Repair Operation also added to the WQPOD Section 9.2?

Mr. Scalise documents a NPDES Permit will be filed prior to construction and I am stating for the Record it requires being filed before.

Standard #9 Operations and Maintenance Plan

“Please see the enclosed Operations and Maintenance Plan for the proposed stormwater system” and once again, a plan is not enclosed or included anywhere in this application.

Standard #10 Illicit discharges to drainage system

“Please see the enclosed Illicit Discharge Statement and accompanying plan to show that no discharge other than Stormwater will be directed into the BMP’s, also if any illicit discharges is found they will be remedied immediately”.

a) The enclosed Illicit Discharge Statement is for a Great Barrington Airport Stormwater and Sewer System, is not signed and has no accompanying plan.

b) BMP’s are pollution control measures designed to reduce the effects of pollution from industrial stormwater discharges.

I.5 CONCLUSIONS you have marked as I.6 states in part,

“The proposed project is fully compliant with all the standards of the Stormwater Management Standards”.

It goes on to state “ The report is prepared under the direction of the Professional Engineer as well as the project plans”, and the next section is titled,

SECTION 2.0 Operation and Maintenance Plan and the page is Blank, there is no Section 2.0 and no Operation or Maintenance Plan and of what? What are you Operating? What are you Maintaining? Aircraft Storage Hangars under the direction of a Professional Engineer?

It goes on to claim “on-site soils as Hoosic Fine Sandy Loam. Soil analysis was completed on 10 test pits over the property. Soil investigation at the site have confirmed that the site is well drained sandy soils, with no groundwater or ledge encountered”. The next sentence under Soil Evaluation states “Soil test pits were performed throughout the site to determine the soil conditions, presence of ledge and seasonal groundwater”? “These test pits can be seen on the watershed plan”? What water shed plan? There is no such plan included.

SECTION 3.0 Drainage

3.1 Existing Conditions Calculations and Watershed Map and Plan.

There is no Map or Plan.

3.2 Post Conditions Calculation and Watershed Map and Plan.

There is no Map or Plan.

SECTION 4.0 Illicit Discharge Statement of,

The Stormwater and Sanitary Sewer System prepared for the Great Barrington Airport located in Gt. Barr. Mass. has no address and it is not signed. Mr. Scalise documented that the hangars will having no water or septic so what is this for?

Custom Soil Resource Report for Berkshire County Mass..

Contents claim a soil map on page 8) that is not included, and Page 10) a Map Unit Legend that is not included, and Page 11) Map Unit Legend and Map Unit Descriptions, that are also not included.

Page 6) states “After the scientists located and identified the significant natural bodies of soil in the survey area, they drew the boundaries of these bodies on aerial photographs an identified each as a specific map unit”. Aerial photograph(s) show trees, buildings, fields, roads, and rivers all of which help in locating boundaries accurately but the page is blank, there are no aerial photos or boundaries in this application but I am laying down mine and its over my dead body.

So what would Walt do to my Walden?, he wouldn't, and either are any of you.

Mr. Scalise, Town of Gt. Barr., Town Council, all Council involved and to all parties involved
at this point I am signing off because this is...

*Signed in my presence
on August 3, 2020
Great Barrington, MA.*
Jon S. Marks
P.S. NOTARY



Claudia Shapiro
78 Egremont Plain Road
Gt. Barr. Mass.

Claudia Shapiro 8/3/2020

On July 29th through a Mass. Public Record Request I received 6 dimensionless plans for a Great Barrington Airport Mr. Scalise presented at a Site Plan Review hearing the Planning Board held on July 23rd. This is 3 months after Mr. Scalise submitted his application that states very clearly that a Site Plan Review criteria has been met and approved with a positive recommendation from the Planning Board. The Town Planner also submitted the 6 plans on July 29th that were omitted in my Record Request dated May 21st.

This is the second Site Plan Review and also the subdivision mentioned in the 2008 local attorneys response to B.A.E. requesting division of the business and real estate.

The Plans state very clearly "Plans to accompany Permit Applications, plural, prepared for Great Barrington Airport.

Plans #2 and # 3 show B.A.E. owning property across Seekonk Cross Road? This is untrue.

Plans #3 of 6 has property owned by Dan Bell abutting the Parrish property? This is untrue. There is property marked a Gail Anderson that is not on the abutters list?

The Cover sheet has a Benchmark MassDOT Point ID #1142 with a station name SHAWN.

Requirements for survey and design consultants performing survey work on projects funded, managed or constructed by the Mass. DOT shall be performed by a Mass. Registered Surveyor. A base plan also known as an "existing conditions" plan, Plan #2 of Mr. Scalise's states "Existing Conditions Plan"

The Mass.DOT Field Survey Guidelines and Base Plan Requirements for Survey and Design Consultants, the contents of which are exactly what Mr. Scalise, Surveyor Consultant, Highways and Land Planner is doing, and the reasoning for his insistence on a waiver of a required Traffic Study.

These Plans needs to be disclosed immediately to me and to the public, the Mass. DOT in the WQPOD? No Way!

You people are all after **compliant "DEP Permitted Regulated Facility" on my piece of an airport!** No Way!

You people have no respect for the natural resources or the environment and I have no respect for you. None.

Helen Kuziemko

From: Mark Pruhenski
Sent: Thursday, August 6, 2020 5:41 PM
To: Helen Kuziemko
Cc: Chris Rembold
Subject: FW: Airport expansion

Another one for the packet.

From: ANDREW KRIEGMAN <amkrieg@gmail.com>
Sent: Thursday, August 6, 2020 5:37 PM
To: Steve Bannon <sbannon@Townofgb.org>; bcook@townofgb.org; Leigh Davis <LDavis@Townofgb.org>; eabrams@townofgb.org; Kate Burke <kburke@Townofgb.org>; Mark Pruhenski <MPruhenski@Townofgb.org>
Subject: Airport expansion

I live at 79 Seekonk Cross Road in a house that was built in 1790. Local lore says that it was used as part of the Underground Railroad. Airplanes constantly fly over our house during their approach for landing, even though the official approach is supposed to be over the wooded area.

I have many concerns regarding the airport request for expansion and the effect it will have on the community as well as the sensitive environment of the Green River watershed.

The application statement that it does not affect the flood plain is technically correct, but logically wrong. The floodplain elevation of the area is 728-730. The airport plans call for an elevation of 738. Most experts agree that the historical flood levels are no longer an accurate prediction of future levels which keep getting higher and more frequent. Runoff from the airport during a flooding situation is a hazard for the entire town. The Green River is a local resource that serves the town and needs to be preserved in its natural state.

The airport abuts NHESP Priority Habitat of Rar Species PH1284. Many animals and plant species inhabit this area.

The municipal code section 217-14.1 E specifically designates land area within 500 feet of the Green River as a resource area subject to protection and regulation.

217-14.4 A also states that additional regulations apply to the Green River , referencing 217-14.5.

217-14.5 B specifically states that section 9-2 regulates work within 500 ft distance of the Green River.

In section 9-2.11 under nonconforming uses, it states that the nonconformity shall not be increased or expanded. The application statement that this is not an expansion is factually incorrect. How can you claim that 5 new buildings is not an increase or expansion?

Following the logic here, if the airport is now a nonconforming use, the request to expand must be denied.

This expansion has no benefit for the town and its citizens. It will only increase the demands on the first responders (fire, police and first aid) and will jeopardize the beauty and safety of the area and it's inhabitants. Property values will decrease and all the citizens of Great Barrington will suffer.

Respectfully,

Andrew Kriegman

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.

Helen Kuziemko

From: Mark Pruhenski
Sent: Wednesday, August 5, 2020 1:48 PM
To: Helen Kuziemko
Subject: FW: Please deny BAE Special Permit

From: Holly Hamer <hhamer3143@yahoo.com>
Sent: Tuesday, August 4, 2020 3:01 PM
To: Steve Bannon <scbannon@gmail.com>
Cc: Ed Abrahams <eabrahams@Townofgb.org>; Bill Cooke <bcooke@Townofgb.org>; Kate Burke <kburke@Townofgb.org>; Leigh Davis <LDavis@Townofgb.org>; Mark Pruhenski <MPruhenski@Townofgb.org>
Subject: Please deny BAE Special Permit

Dear Steve and Selectboard members:

The hangers proposal in BAE's special permit application cannot be built without changing the airport from non-conforming to conforming via special permit issued by your board (9.2.11-1).

So why even talk about hangers? Rather than submitting pages of details putting the cart before the horse, why not stick to the issue and ask the question - would airport expansion, legal only with the special permit, be in the best interests of the community?

Relationships between the owners and the neighbors and their allies have been contentious since BAE's first proposal submitted in 2017. We became wary when, asked about the "silly" number of enplanements Rick Solan had stated in an application for a state grant, he replied to the effect: We don't have a tower, we don't have someone sitting in the office counting, we just make up the numbers...."

I have seen no evidence of any attempt to reconcile with the neighbors and the eco-concerned community since then.

BAE has tried to pit the neighbors against the community, claiming we are anti-airport instead of just anti-major expansion.

It is hard to document the benefit to the town when both owners are out-of-state residents and only 9 planes are registered to GB residents. And there is no sales tax on aviation and their property taxes are greatly reduced by Chapter 61a claims.

It's hard to believe those claims without a survey or even a diagram of airport use land versus agricultural land.

It's hard to hope for the best when a simple request to turn down or redirect a very obtrusive high beam spotlight that shines in neighbors' living rooms a half mile away is said to be looked into but remains unchanged. Our hopes were dashed when BAE continued a community meeting ostensibly to answer our questions from the first meeting but then refused to postpone it during a major snow storm which shut down every school in Berkshire County.

It's hard to feel neighborly when one discovers there are no building permits on file for structures at the airport or for the purported new septic system installed five years ago by a neighbor.

It's especially hard to enjoy being outside when a noise mitigation plan put into effect by BAE goes largely unheeded and planes make quick circles at very low altitude over homes and power lines.

We don't have faith in BAE's adherence to the rules when we see numerous touch and go practices on a runway, which at 1539 feet, is too short. People needing the experience in the past went to nearby legal airports to practice. Not anymore.

I personally don't feel safe when I see the airport employees mow a grass runway starting at a point less than 150 feet from my house, near power lines, without sanction, safety measures or point as there is another grass runway parallel to the paved runway.

We gave up the pleasure of Sunday drives decades ago. We gave up leaded gas in our car tanks by 1986 knowing how dangerous lead was to our water, earth, air and especially children. Why would we encourage continued use of leaded gas at BAE by allowing expansion?

There are many reasons not to issue a special permit and not open the floodgates to many many more "accessory structures" than the six in the current proposal.

Please consider turning down the special permit and not discussing the hangers before and only if the non-conformity is removed by such a permit.

This issue has a much wider effect than just a few neighbors or a few hangers for that matter. It concerns our caretaking of natural resources, our neighborhoods, how we treat each other and our vision for the future.

Holly Hamer
99 Seekonk Cross Rd.
413-717-0661

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.

Helen Kuziemko

From: Steve Bannon
Sent: Friday, August 7, 2020 10:31 AM
To: Chris Rembold; Mark Pruhenski; Helen Kuziemko
Subject: Fwd: Airport Hearing/Special Permit Aug. 10,2020

Stephen Bannon
413-446-6957
Sent from my iPad

Begin forwarded message:

From: Joanne Sheron <j_sheron@yahoo.com>
Date: August 7, 2020 at 10:20:27 AM EDT
To: Steve Bannon <sbannon@Townofgb.org>, Kate Burke <kburke@Townofgb.org>, Leigh Davis <LDavis@Townofgb.org>, Ed Abrahams <eabrahams@Townofgb.org>, "bcook@townofgb.org" <bcook@townofgb.org>
Cc: Joanne Sheron <j_sheron@yahoo.com>
Subject: Airport Hearing/Special Permit Aug. 10,2020
Reply-To: "j_sheron@yahoo.com" <j_sheron@yahoo.com>

I live at 95 Seekonk Crossroad in Gt. Barrington. My family has been here since 1955, 65 years. I like the airport the way it is. It should remain a non conforming airport in a residential zone. No special permit, no airport expansion. It has always been a hobby airport.

Neighbors, as far as expansion of the airport, are concerned about environmental issues, lead in ground water, animal and plant habitat along the Green River, hazardous waste, excessive lighting.

Neighbors have had bad relations with the airport since 2017 and no attempt to reconcile

Local farmer uses airport land under Chapter 61a for agricultural use.

I do not want an access road of any kind off Seekonk Crossroad for airport purposes.

Flights using the Grass runway go directly over my house. Sometimes planes barely clear my house and the electrical lines.

The whole Green River area is an animal and vegetation habitat. I see deer, coyotes, turkeys, bears, and bobcat using it constantly. More commercial at airport would disturb this unique habitat.

Attempts to turn down or redirect a very obtrusive highbeam stoplight that shines directly in my windows a half mile away have no response from airport.

No special permit for the airport!

Joanne Osgood Sheron
95 Seekonk Crossroad

[Sent from Yahoo Mail on Android](#)

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.



Seaport West
155 Seaport Boulevard
Boston, MA 02210-2600

617.832.1000 main
617.832.7000 fax

Thaddeus Heuer
617-832-1187 direct
THeuer@foleyhoag.com

August 6, 2020

BY ELECTRONIC MAIL

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

Re: Public Comment at August 10, 2020 Public Hearing | 70 Egremont Plain Road, Berkshire Aviation Enterprises

Dear Mr. Bannon and Members of the Selectboard:

I write to request permission to address the Selectboard—as counsel on behalf of a group of Great Barrington citizens—during the August 10, 2020 public hearing on the special permit application of Berkshire Aviation Enterprises (“BAE”).

These citizens, who oppose the grant of the special permit, include 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.

Section 189-4(C) of the Bylaws establishes the public hearing procedures before the Selectboard, including “(4) Questions: public” in response to arguments made by special permit proponents, “(5) Arguments: opponents” and “(9) Concluding statement/rebuttal: opponents (five-minute limit).” It is within these limited parameters that I request permission to address the Selectboard. I appreciate that per Section 189-4(E), the Selectboard has an interest in reducing repetition in presentations to the extent possible.

Finally, I recognize that under Section 189-7, “Citizen Speak” is reserved for citizens of Great Barrington, and do not seek permission to speak during that portion of the agenda.

If you could kindly inform me of your decision in advance of the hearing if possible, I would be most grateful. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Thaddeus Heuer", written over a white background.

Thaddeus Heuer

Page 2

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

New Applicant

TOWN OF GREAT BARRINGTON

NOTICE OF PUBLIC HEARING

The Selectboard will hold a public hearing on Monday, August 10, 2020 at 7:00 PM, via Zoom, at the Town Hall, 334 Main Street, Great Barrington, MA 01230 to act on the application of Agaves Mexican Grill LLC dba Agaves Mexican Grill, Sandra Sosa, Manager for a new Common Victualler Restaurant All Alcoholic Liquor License with outdoor seating capacity of 60 at 389 Stockbridge Road, Great Barrington, MA 01230.

Stephen Bannon
Chair

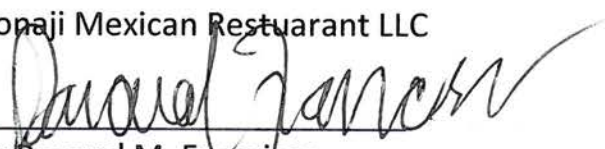
PLEASE PUBLISH July 29 and August 5, 2020.

Surrender of Liquor License

To the Licensing Board of the Town of Great Barrington:

The undersigned Donaji Mexican Restaurant LLC, a former tenant of 389 Stockbridge Road formerly doing business as a restaurant with the name "Donaji Mexican Restaurant" and having been granted a common victualler's alcohol license, License Number 03949-RS-0464, by the Town of Great Barrington on March 16, 2018, hereby surrenders that license, having ceased operations.

Donaji Mexican Restuarant LLC



By Pascual M. Francisco
Its Manager

Date: 05/14/2020

Copy 2019

License No. 03949-RS-0464
Fee: \$950.00

LICENSE
ALCOHOLIC BEVERAGES
THE LICENSING BOARD OF
THE TOWN OF GREAT BARRINGTON
MASSACHUSETTS
HEREBY GRANTS A
COMMON VICTUALLER
License to Expose, Keep for Sale, and to Sell
All Kinds of Alcoholic Beverages
To Be Drunk on the Premises

To Donaji Mexican Restaurant LLC d/b/a Donaji Mexican Restaurant, Pascual M. Francisco,
Manager

on the following described premises:

389 Stockbridge Road, Great Barrington, MA 01230

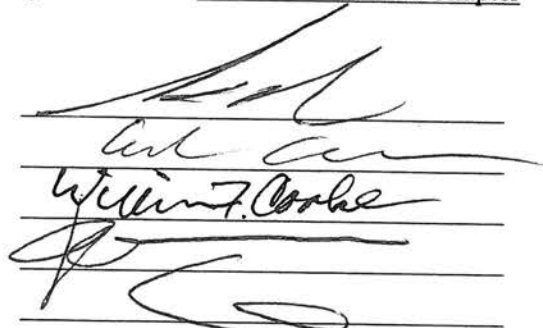
Indoor area 1800 sq.ft., patio/outdoor area 650 sq. ft., Total Square Footage 2450 , 2 Entrances, 2 Exits,

56 Seating capacity inside and 30 seating capacity outside.

This license is granted and accepted upon the express condition that the licensee shall, in all respects, conform to all the provisions of the Liquor Control Act, Chapter 138 of the General Laws, as amended, and any rules or regulations made thereunder by the licensing authorities. This license expires December 31, 2020, unless earlier suspended, cancelled or revoked

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed their official signatures this 16th day of
December, 2019.

The Hours during which Alcoholic Beverages may be sold are: In accordance with Chapter 138 of the Mass. General Laws.



Licensing Board

THIS LICENSE SHALL BE DISPLAYED ON THE PREMISES IN A CONSPICUOUS POSITION WHERE IT CAN BE EASILY READ.

Helen Kuziemko

From: Pascual Francisco <pascualfco@me.com>
Sent: Monday, August 3, 2020 11:18 PM
To: Helen Kuziemko
Cc: donajimr389@gmail.com; Mark Pruhenski; Ira Kaplan; Jeremia A Pollard
Subject: Re: 2020 Donaji Mexican Restaurant Liquor License at 389 State Road, Great Barrington

Dear Hellen:

Thank you. My family and I are doing well.

I received a call from Attorney Ira Kaplan asking for the liquor license as well. Several weeks ago, I signed a document surrendering the liquor license and I forwarded to Attorney Ira Kaplan. Unfortunately, when I left 389 Stockbridge Road, my cousin Laurentino Francisco claimed that all items in at Donaji's were his; so, the owner did not allowed me to take all my belongings, in some of the folder that I left at Donaji's was the liquor license. I do not have the hard copy of the liquor license with me.

I have already signed the document surrendering the liquor license and it is my intention to surrender it.

Regards,

Pascual Francisco
95 West Avenue 2B
Great Barrington, MA 01230
Cell (USA): 845 663 0752
pascualfco@me.com

On August 3, 2020 at 4:43 PM, Helen Kuziemko <hkuziemko@Townofgb.org> wrote:

Hello Pascual,

I hope you are doing well!

I have tried calling you this afternoon at two different telephone numbers, but was not able to connect.

The Town/Selectboard has received notice that you are no longer operating at 389 State Road and hence not using your 2020 Restaurant All Alcoholic Liquor License. Since the Liquor License is not being used, the Selectboard is asking that you return it to the Town or let us know, via email, what your intentions are.

If you have any questions, please do not hesitate to contact us. Thank you.

Helen V. Kuziemko

Administrative Assistant

Selectboard/Town Manager



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
 www.mass.gov/abcc

APPLICATION FOR A NEW LICENSE

Municipality

1. LICENSE CLASSIFICATION INFORMATION

ON/OFF-PREMISES	TYPE	CATEGORY	CLASS
<input type="text" value="On-Premises-12"/>	<input type="text" value="§12 Restaurant"/>	<input type="text" value="All Alcoholic Beverages"/>	<input type="text" value="Annual"/>

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

Is this license application pursuant to special legislation? Yes No Chapter Acts of

2. BUSINESS ENTITY INFORMATION

The entity that will be issued the license and have operational control of the premises.

Entity Name FEIN

DBA Manager of Record

Street Address

Phone Email

Alternative Phone Website

3. DESCRIPTION OF PREMISES

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

Total Square Footage:	<input type="text" value="3700"/>	Number of Entrances:	<input type="text" value="2"/>	Seating Capacity:	<input type="text" value="106"/>
Number of Floors	<input type="text" value="1"/>	Number of Exits:	<input type="text" value="2"/>	Occupancy Number:	<input type="text" value="112"/>

4. APPLICATION CONTACT

The application contact is the person whom the licensing authorities should contact regarding this application.

Name: Phone:

Title: Email:

APPLICATION FOR A NEW LICENSE

5. CORPORATE STRUCTURE

Entity Legal Structure	<input type="text" value="LLC"/>	Date of Incorporation	<input type="text" value="5/28/2020"/>
State of Incorporation	<input type="text" value="Massachusetts"/>	Is the Corporation publicly traded? <input type="radio"/> Yes <input checked="" type="radio"/> No	

6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:
On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers - At least 50% must be US citizens;
Off Premises(Liquor Store) Directors or LLC Managers - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB
<input type="text" value="Sandra Sosa"/>	<input type="text" value="110 Pine Street, So. Lee, MA 01260"/>	<input type="text" value="REDACTED"/>	<input type="text" value="REDACTED"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input type="text" value="Manager"/>	<input type="text" value="100%"/>	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

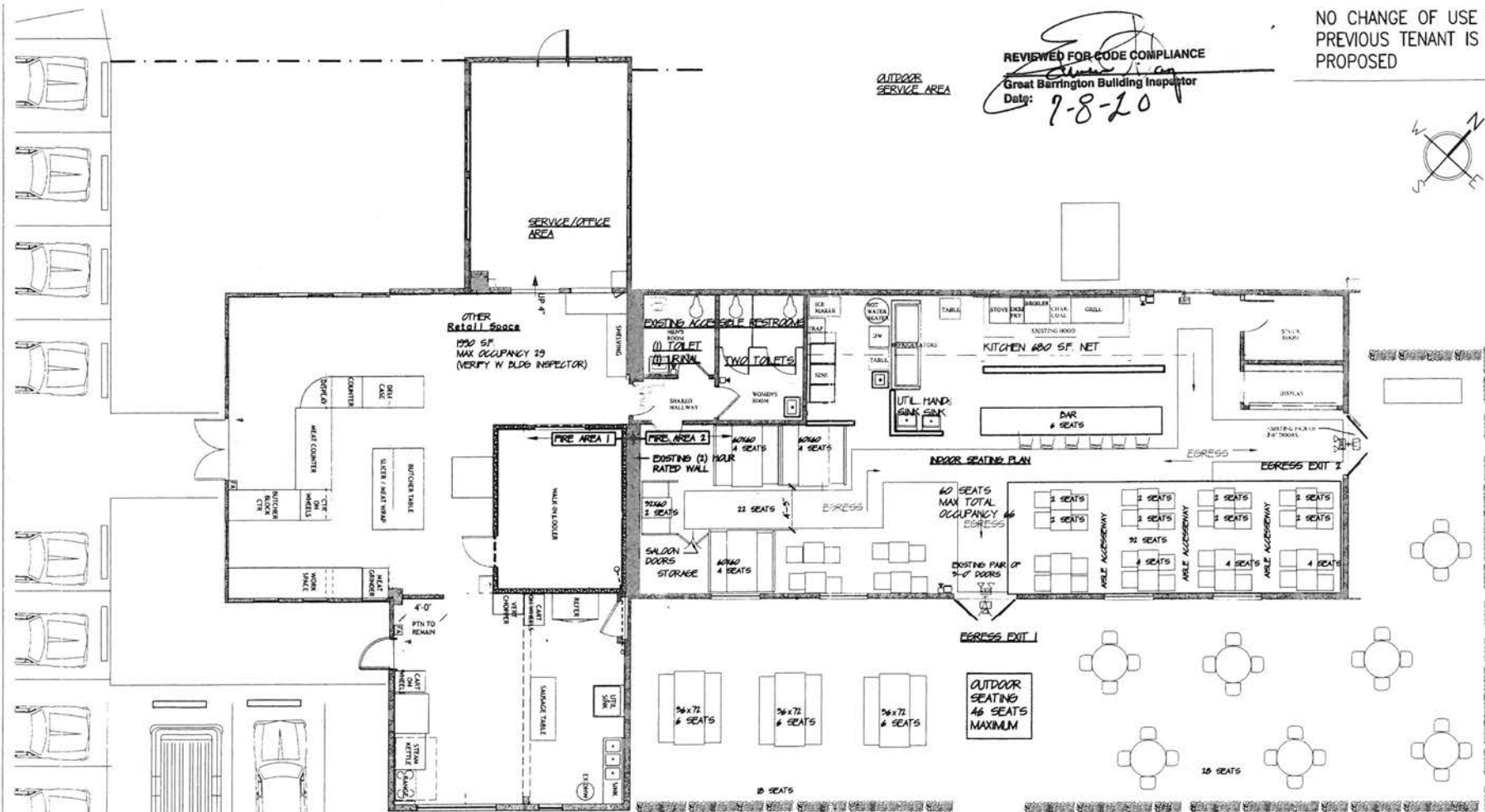
Name of Principal	Residential Address	SSN	DOB
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Additional pages attached? Yes No

CRIMINAL HISTORY

Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions. Yes No



REVIEWED FOR CODE COMPLIANCE
 Great Barrington Building Inspector
 Date: 7-8-20

NO CHANGE OF USE FROM
 PREVIOUS TENANT IS
 PROPOSED



Diego Gutierrez

Registered Design Professional
 Diego Gutierrez, Architects
 123 Front Street
 Housatonic MA
 413-854-8955
 diegoarch@outlook.com

Project
 AGAVES Mexican Grill
 Bar and Seating Plan
 389 Stockbridge Road
 Great Barrington, MA 01230

SHEET NAME
 Proposed Seating Plan

REV
 DATE 7.2.20

SCALE
 3/32" = 1'-0"

SHEET
 Sk1

BUILDING AREA (GROSS)

Restaurant	NET (SEATING)	300 SF.
	KITCHEN/SIN.	460
	CIRCULATION	332
	GROSS	1800 SF.
Other Retail Space	1990	
COMMON	225	
TOTAL	4,015 SF.	

SEATING (A-2, ONE OCCUPANT/15 SF NET)

Restaurant 300 SF NET
 Maximum Indoor Seating = 300/15 = 60 Seats

Maximum Outdoor Seating based on Toilets
 195 - (29 other tenant) - 60 Indoor seats =
 46 Outdoor Seats

OCCUPANCY
 Maximum occupancy based to Fire Area restriction
 without sprinkler system = 99

Maximum occupancy (A-2) based to SHARED toilet facilities provide

MALE	FEMALE
1 WC = 50	2 WC = 60
1 URINAL = 25	1 LAV = 60
TOTAL MALES = 75	TOTAL FEMALES = 60

TOTAL MAXIMUM = 195 FOR BOTH A-2 ASSEMBLY SPACES COMBINED

Maximum Occupancy for AGAVES
 60 seats + 6 Staff = 66 OCCUPANTS

Additional Notes:
 1. Place sign adjacent to egress doors stating: "THIS DOOR TO REMAIN UNLOCKED WHEN THIS SPACE IS OCCUPIED". Letters must be 1" high on contrasting background

1 Seating Plan - Dining Only
 1" = 10'-0"

APPLICANT'S STATEMENT

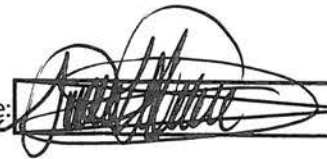
I, Sandra Sosa the: sole proprietor; partner; corporate principal; LLC/LLP manager
Authorized Signatory

of Agaves Mexican Grill LLC
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature: 

Date: 07/15/2020

Title: Manager, Agaves Mexican Grill LLC

CORPORATE VOTE

The Board of Directors or LLC Managers of Agaves Mexican Grill LLC
Entity Name

duly voted to apply to the Licensing Authority of Great Barrington and the
City/Town

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on July 10, 2020
Date of Meeting

For the following transactions (Check all that apply):

- | | | | |
|--|---|--|---|
| <input checked="" type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | | <input type="checkbox"/> Other | <input type="checkbox"/> Change of DBA |

"VOTED: To authorize Sandra Sosa
Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

"VOTED: To appoint Sandra Sosa
Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,


Corporate Officer /LLC Manager Signature

Sandra Sosa.
(Print Name)

For Corporations ONLY

A true copy attest,

Corporation Clerk's Signature

(Print Name)



THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF GREAT BARRINGTON
BERKSHIRE COUNTY
BUSINESS CERTIFICATE
2020

Certificate Number: 82-20

Date: July 27, 2020

Personally appeared before me,

Agaves Mexican Grill LLC

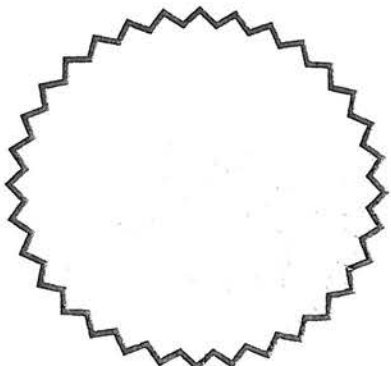
DBA: Agaves Mexican Grill

And made an oath that the foregoing statement is true:

- A certificate issued in accordance with this section shall be in force and effect for four years from date of issue and shall be renewed each four years thereafter so long as such business shall be conducted and shall lapse and be void unless so renewed.

Expiration Date: July 27, 2024

Katherine Couch
TOWN CLERK (or ASSISTANT)





**The Commonwealth of Massachusetts
William Francis Galvin**

Minimum Fee: \$500.00

Secretary of the Commonwealth, Corporations Division
One Ashburton Place, 17th floor
Boston, MA 02108-1512
Telephone: (617) 727-9640

Certificate of Organization

(General Laws, Chapter)

Identification Number: 001439955

1. The exact name of the limited liability company is: AGAVES MEXICAN GRILL LLC

2a. Location of its principal office:

No. and Street: 389 STOCKBRIDGE ROAD
City or Town: GREAT BARRINGTON State: MA Zip: 01230 Country: USA

2b. Street address of the office in the Commonwealth at which the records will be maintained:

No. and Street: 389 STOCKBRIDGE ROAD
City or Town: GREAT BARRINGTON State: MA Zip: 01230 Country: USA

3. The general character of business, and if the limited liability company is organized to render professional service, the service to be rendered:

TO CONDUCT A RESTAURANT BUSINESS; TO OWN, LEASE, OR LICENSE FACILITIES FOR ONE OR MORE RESTAURANTS; TO OPERATE RESTAURANTS AND OTHER PLACES AND FACILITIES FOR PURVEYING FOOD, DRINK, AND REFRESHMENT WITH LIVE AND RECORDED MUSIC AND ENTERTAINMENT; TO OBTAIN AND TO DO BUSINESS UNDER ONE OR MORE ALCOHOLIC BEVERAGE LICENSES, UNDER DUE PUBLIC AUTHORITY AND IN CONFORMANCE WITH LAW AND REGULATIONS; AND IN GENERAL TO DO ALL THINGS NECESSARY, APPROPRIATE, OR REASONABLY RELATED TO THE CONDUCT OF A RESTAURANT BUSINESS WITH ENTERTAINMENT.

4. The latest date of dissolution, if specified:

5. Name and address of the Resident Agent:

Name: SANDRA SOSA
No. and Street: 389 STOCKBRIDGE ROAD
City or Town: GREAT BARRINGTON State: MA Zip: 01230 Country: USA

I, SANDRA SOSA resident agent of the above limited liability company, consent to my appointment as the resident agent of the above limited liability company pursuant to G. L. Chapter 156C Section 12.

6. The name and business address of each manager, if any:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
MANAGER	SANDRA SOSA	389 STOCKBRIDGE ROAD GREAT BARRINGTON, MA 01230 USA

7. The name and business address of the person(s) in addition to the manager(s), authorized to execute

documents to be filed with the Corporations Division, and at least one person shall be named if there are no managers.

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
SOC SIGNATORY	SANDRA SOSA	389 STOCKBRIDGE ROAD GREAT BARRINGTON, MA 01230 USA

8. The name and business address of the person(s) authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
REAL PROPERTY	SANDRA SOSA	389 STOCKBRIDGE ROAD GREAT BARRINGTON, MA 01230 USA

9. Additional matters:

SIGNED UNDER THE PENALTIES OF PERJURY, this 28 Day of May, 2020,
IRA J KAPAN

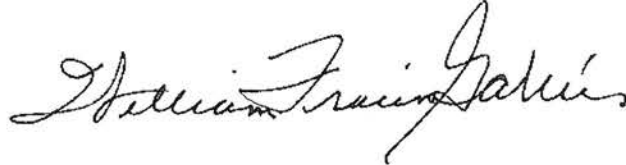
(The certificate must be signed by the person forming the LLC.)

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are

deemed to have been filed with me on:

May 28, 2020 02:49 PM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive style with a large, prominent initial "W".

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

Bruce Firger, Assessor
John Katz, Assessor

Shaun McHugh, Principal Assessor
E-mail: smchugh@townofgb.org

Carol Strommer
Administrative Assessor
E-mail: cstrommer@townofgb.org



Town Hall, 334 Main Street
Great Barrington, MA 01230

Telephone: (413) 528-2220 x 5
Fax: (413) 528-1026

TOWN OF GREAT BARRINGTON MASSACHUSETTS BOARD OF ASSESSORS

August 3, 2020

IMMEDIATE ABUTTERS FOR LIQUOR: WHITE HOUSE SQUARE LTD, AGAVES MEXICAN GRILL
389 Stockbridge Road, Map 8 Lots 2 & 3, Book 1101 Pg. 210

<u>MAP</u>	<u>LOT</u>	<u>ABUTTER</u>
9 U 10	1	Living God Fellowship, PO Box 715, Gt. Barrington, MA 01230-0715
8	1B	JEM GB LLC, 100 Stockbridge Rd., Gt. Barrington, MA 01230-1230
8	4	White House Square Ltd, John Delmolino, 2994 SE Fairway W., Stuart, FL 34997-6022

The above list of immediate abutters for liquor is correct
according to the latest records of this office.

Sincerely,


Shaun McHugh
Principal Assessor

Mailed 8/3/2020
A

2020

COMMONWEALTH OF MASSACHUSETTS
TOWN OF GREAT BARRINGTON
APPLICATION FOR COMMON VICTUALLER LICENSE

Pd.
FEE: \$25.00 (Payable to the Town of Great Barrington) DATE: 7/15/20

NOTICE:

As provided by MGL Chapter 140, the sale of food for immediate consumption on the premises of the vendor has an intimate relation to the public health, and such activity cannot be conducted without the proper license and permit.

TO THE LICENSING AUTHORITY:

The undersigned hereby applies for a Common Victualler License in accordance with the provisions relating thereto:

OWNER(S) NAME: Agaves Mexican Grill LLC

NAME OF BUSINESS: Agaves Mexican Grill

D/B/A (if applicable): Agaves Mexican Grill

BUSINESS MAILING ADDRESS: 389 Stockbridge Rd., Great Barrington, MA 01230

BUSINESS TELEPHONE: 413-645-3281 HOME TELEPHONE: 203-802-8374

LOCATION WHERE LICENSE IS TO BE USED: 389 Stockbridge Rd., Great Barrington, MA 01230

DAYS OF OPERATION: Seven

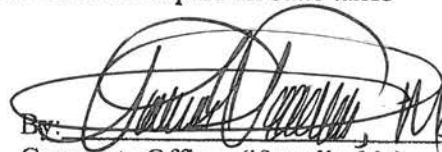
HOURS OF OPERATION: 7 a.m. to 11:45 p.m

DESCRIPTION OF PREMISES: Restaurant consisting of 1800 sq. ft interior and 1900 sq ft exterior

with outdoor seating capacity of 60.

Pursuant to M.G.L. Ch. 62C, Sec. 49A, I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

Agaves Mexican Grill LLC
Signature of Individual or Corporate Name

By:  *Manager.*
Corporate Officer (if applicable) *Sandra Sousa*

SS# _____ or FID# 85-1197511

Town of Great Barrington

Form date: August 2015

Selectboard

Paid

Fee \$50.00

Application for Access to a Public Way / Driveway Permit

Number 3152

[Handwritten initials]

INSTRUCTIONS

RETURN FIVE (5) COPIES OF THIS FORM AND ALL ACCOMPANYING PLANS, ALONG WITH THE \$50.00 FEE to the Department of Public Works office in Town Hall, 2nd Floor, 334 Main Street, Great Barrington, MA 01230. Plans must show the location of the driveway on the property and must also indicate all details needed in order to determine that driveway regulations are met, including paving material, width, grade, drainage, culverts, angle to street, etc. See Chapter 153 of the Town Code for driveway regulations.

Application Date July 16, 2020

Name of Applicant / Property Owner Great Barrington Land Conservancy

Mailing address P.O. Box 987, Great Barrington, Ma. 01230

Phone number (413) 644-9521

Location of proposed driveway / highway entrance At entrance to the Riverfront Trail, Brookside Road. Over Town ROW.

Contractor who will perform the work Peter S. Jensen and Associates

Address & phone number of contractor P.O. Box 154, Washington, Vt. 05675, (413) 441-0204

Proposed construction date August 1 -15, 2020

Type of driveway (gravel, asphalt, etc.) 3/4" minus driveway mix. Compacted. See attached construction drawing.



Print Form

Submit five (5) copies of completed form and plans.

Applicant hereby agrees to notify the Great Barrington DPW Superintendent of the date and time of driveway construction at least 24 hours before construction is begun. Applicant further agrees to conform to all requirements of the Town of Great Barrington regulations governing access to public ways and to all conditions that may be placed on this permit. See Chapter 153 of the Town Code for regulations and design requirements.

Applicant's Signature: *[Signature]* President, GBLC

FOR STAFF USE ONLY

RECOMMENDATION OF DPW / HIGHWAY SUPERINTENDENT

After consultation with review staff, and after full consideration of the application and the applicable requirements, I recommend that this application be:

- approved as submitted
- approved with conditions attached
- disapproved for reasons attached
- resubmitted with changes suggested per attached

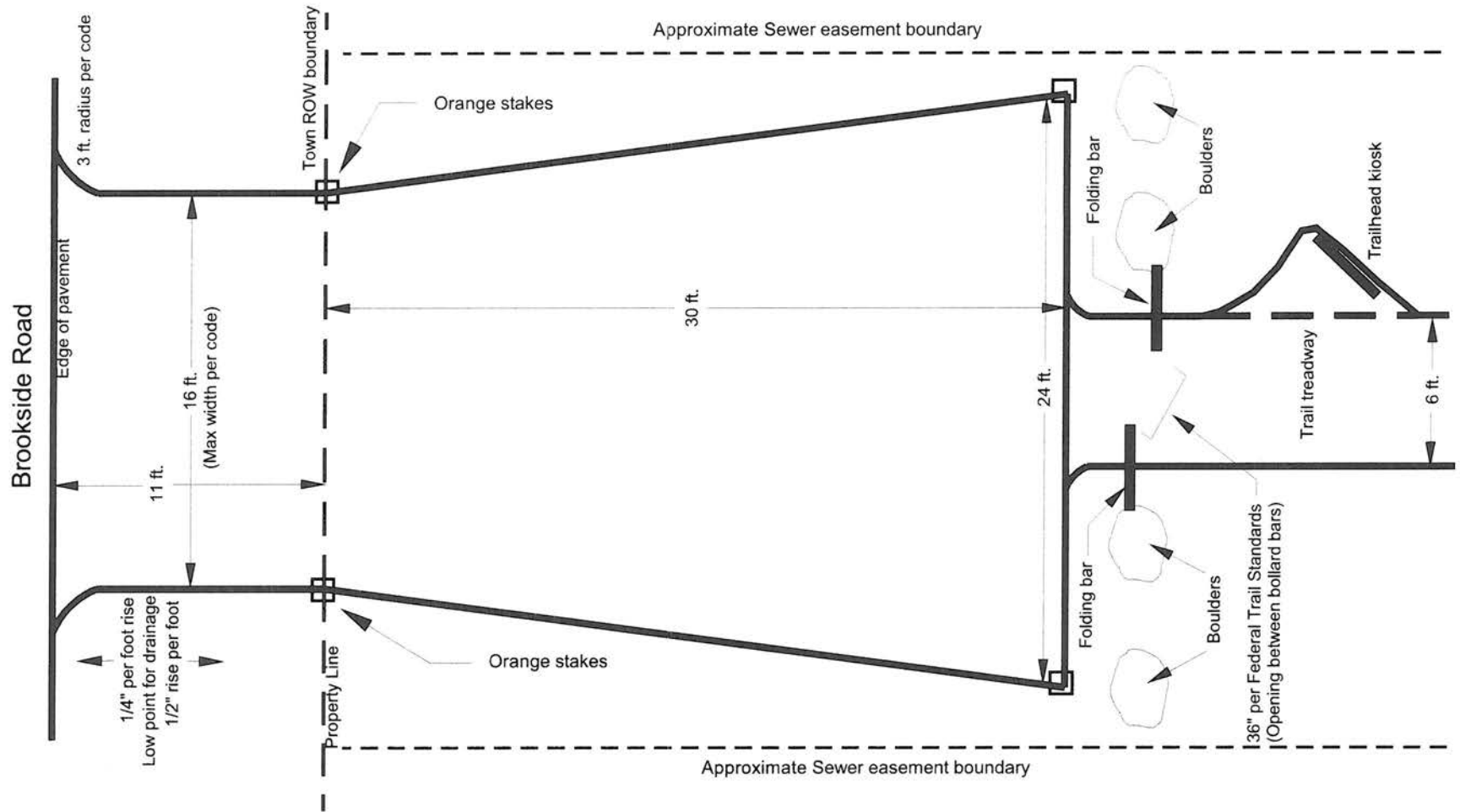
Staff Reviews Received:

	Received	Conditions Recommended	Other Permits Required
Conservation:	()	()	()
Fire Chief:	()	()	()
Planning:	()	()	()

PERMIT FOR ACCESS TO A PUBLIC WAY / DRIVEWAY

Pursuant to its vote of _____ in favor and _____ opposed, at its meeting on _____, the Great Barrington Selectboard granted permission to construct or alter this access to a public way at the address and in the location indicated in this application, in accordance with the plans accompanying this application, and subject to any conditions attached.

For the Selectboard: _____, its _____ (signature) (title) (date)



Brookside Road Trail Entrance & Parking

Riverfront Trail - Southern Section

Great Barrington Land Conservancy

Not to Scale

July 2020

John Malumphy
Highway-Facilities Superintendent

E-mail: jmalumphy@townofgb.org
www.townofgb.org



20 East Street
Great Barrington, MA 01230

Telephone: (413) 528-2500
Fax: (413) 528-2290

TOWN OF GREAT BARRINGTON MASSACHUSETTS

Department of Public Works
Highway Division

Conditions on Application for Access to Public Way

Applicant: Great Barrington Land Conservancy
Location: Brookside Rd
From: John Malumphy Highway Superintendent
Date: August 5, 2020

1. The applicant shall construct the proposed access to conform to the following applicable criteria listed under **Section 153-14, Design requirements** of the Town of Great Barrington Code:
 - B. Driveway location as shown on the attached plan is acceptable, with regards to alignments with the way, profile, sight distance conditions and not located at the extreme edge of the property.
 - C. No more than two (2) driveways shall normally be allowed for any property, unless there is a clear necessity for more.
 - D. Driveways shall not normally be approved at intersections, because of potential safety hazards.
 - E. Culverts taking the place of roadside ditches shall have a diameter of not less than 15" (*A culvert is not required at this location*)
 - F. Entrance elevation at the point of entry into the public right-of-way shall be no more than the elevation of the shoulder of the road.
 - G. Driveways should be so constructed that water from the driveway shall not drain onto the crown of the road.
 - H. In no instance shall the edge of the driveway entering onto the road conflict with the flow of surface water runoff.

- I. Driveway width. Any curb at the entrance shall be rounded off with a radius of three (3) feet.
 - J. Pitch of driveway shall be downward from the edge of the road to sideline of the town right-of-way or front property line.
 - K. Driveways should be located to the best advantage with respect to the alignment with the way, profile and sight distance conditions. In no instance shall a driveway intersect the way at less than a sixty degree angle. Unless there is no alternative, a driveway should not be located within a required side yard.
 - L. No permit shall be issued for any driveway to a structure or proposed structure on a grade in excess of ten percent (10%) above the road or street level until and unless the applicant submits plans to the Highway Superintendent showing that the driveway will be constructed in a such a way so as not to discharge water, stones or other materials onto any public street, road or highway.
2. Install a paved driveway apron in accordance with the following requirements:
 - A. Apron dimensions: Width = 22-feet maximum along the roadway which includes a 3-foot radius curb on each side. Length = 5-feet minimum from edge of roadway.
 - B. Place 3-inches of bituminous concrete on 12-inches of compacted gravel.
 - C. Place asphalt tack coat along the edge of the road where the apron meets the edge of the existing pavement.

The applicant agrees to notify the Highway Superintendent (528-2500) at least 48 hours prior to the installation of the paved apron.

3. Should there be, after completion of the driveway, discharges of water, stones, or silt onto the public way or onto property of any abutters or neighbors, the property owner shall take whatever steps are necessary to eliminate such discharges.
4. The applicant shall maintain the proposed access to conform to the following applicable condition listed under **Section 153-17, Continuing responsibility of owners**, of the Town of Great Barrington Code:

Abutting property owners shall be responsible for keeping culverts under their driveways cleared and for maintaining driveways in condition conforming to the requirements of the permit.





Jackie Dawson

From: Chris Rembold
Sent: Thursday, July 23, 2020 10:00 AM
To: Charles Burger; Jackie Dawson; John Malumphy; Great Barrington Conservation Commission
Subject: RE: Driveway Application for Riverfront Trail, Brookside Road

Thanks, it's ok with Planning too.

Sean, I assume the "folding bar" at the trailhead allows for access to the easement, if needed?



Christopher Rembold, AICP

Assistant Town Manager
Director of Planning and
Community Development
413-528-1619 ext. 108
crembold@townofgb.org

Town of Great Barrington
334 Main Street
Great Barrington MA 01230



The Secretary of State's office has determined that most e-mails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.

From: Charles Burger <cburger@Townofgb.org>
Sent: Thursday, July 23, 2020 9:34 AM
To: Jackie Dawson <jdawson@Townofgb.org>; Chris Rembold <crembold@Townofgb.org>; John Malumphy <JMalumphy@Townofgb.org>; Great Barrington Conservation Commission <conservation@townofgb.org>
Subject: RE: Driveway Application for Riverfront Trail, Brookside Road

No issues for the FD.



Charles Burger

Fire Chief
413-528-0788 ex 101
cburger@townofgb.org

Town of Great Barrington
Fire Department
37 State Road
Great Barrington MA 01230



The Secretary of State's office has determined that most e-mails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.

Jackie Dawson

From: Great Barrington Conservation Commission
Sent: Friday, July 24, 2020 3:18 PM
To: Jackie Dawson
Subject: RE: Driveway Application for Riverfront Trail, Brookside Road

No issues for Conservation.

-Shep

From: Jackie Dawson <jdawson@Townofgb.org>
Sent: Thursday, July 23, 2020 9:22 AM
To: Chris Rembold <crembold@Townofgb.org>; Charles Burger <cburger@Townofgb.org>; John Malumphy <JMalumphy@Townofgb.org>; Great Barrington Conservation Commission <conservation@townofgb.org>
Subject: Driveway Application for Riverfront Trail, Brookside Road

Please see attached memo and application. Responses are needed by August 3rd.

Thank You,

Jackie



Jackie Dawson

Administrative Assistant

413-528-0867

jdawson@townofgb.org

Town of Great Barrington
334 Main Street
Great Barrington MA 01230



The Secretary of State's office has determined that most e-mails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.



TOWN OF GREAT BARRINGTON
Temporary Sunday Entertainment License Application
(Local Approval ONLY-State Approval Required Separately)

____ Hours between 1:00 pm-11:59 pm
(\$2.00 per Sunday)

Hours between 9:00 am- 11:59 pm
(\$5.00 per Sunday)

The undersigned hereby applies for a license in accordance with the provisions of Massachusetts General Laws, Ch.136 Sec.4.

Name: Gerard "Poly" Lanoue

Business/Organization: Olde Yankee Street Rods

D/B/A (if applicable): _____

Address: P O Box 413

Mailing Address: So. Egremont, MA. 01258

Phone Number: 413-528-9304

Email: polylanoue@gmail.com

TYPE: (Check all that apply) Concert Dance Exhibition Cabaret DJ

Live band with up to ____ pieces, including singers Public Show

Other (please explain) antique & classic vehicles

INCLUDES: Live music Recorded music Dancing by entertainers/ performers

Dancing by patrons Amplification system Theatrical exhibition

Floorshow Play Moving picture show Light show Jukebox

Other (please explain) Listening to recorded music

As part of the entertainment, will any person be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or whether any person will be permitted to appear on the premises in any manner or attire as to expose to public view a portion of the breast below the top of the areola, or any simulation thereof? (M.G.L. Chp.140 Sec.183A)

____ YES

NO

Please circle: **INDOOR** or **OUTDOOR** Entertainment

Exact Location of Entertainment (include sketch): Bogie's Restuarant - front and rear fields, if needed.

Date(s) of Entertainment: Sunday, September 6, 2020

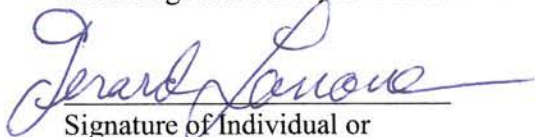
Start & End Times of Entertainment: 9:30 A.M till 3:00 P.M

Does your event involve any of the following? (Check all that apply)

- Food Temporary Bathrooms Tents Stages Temporary Signs
 Electrical Permits Building Permits Police Traffic Details Street Closures

ALL entertainment licenses will be reviewed by the Design Review Team (DRT), which is comprised of several Town departments, for comments/concerns on this application.

Pursuant to M.G.L. Ch. 62C, Sec. 49A, I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.



Signature of Individual or
Corporate Officer

8-4-2020

Date

009-28-3001

SS# or FID#

TOWN USE ONLY:

DRT Review with Conditions: DRT has no concerns, but Health Dept. will follow up with organizers re: safety measures, capacity limits, etc. CR

APPROVAL DATE: _____

LICENSE # _____

Bogies Restaurant
935 Main Street
Great Barrington, Mass.

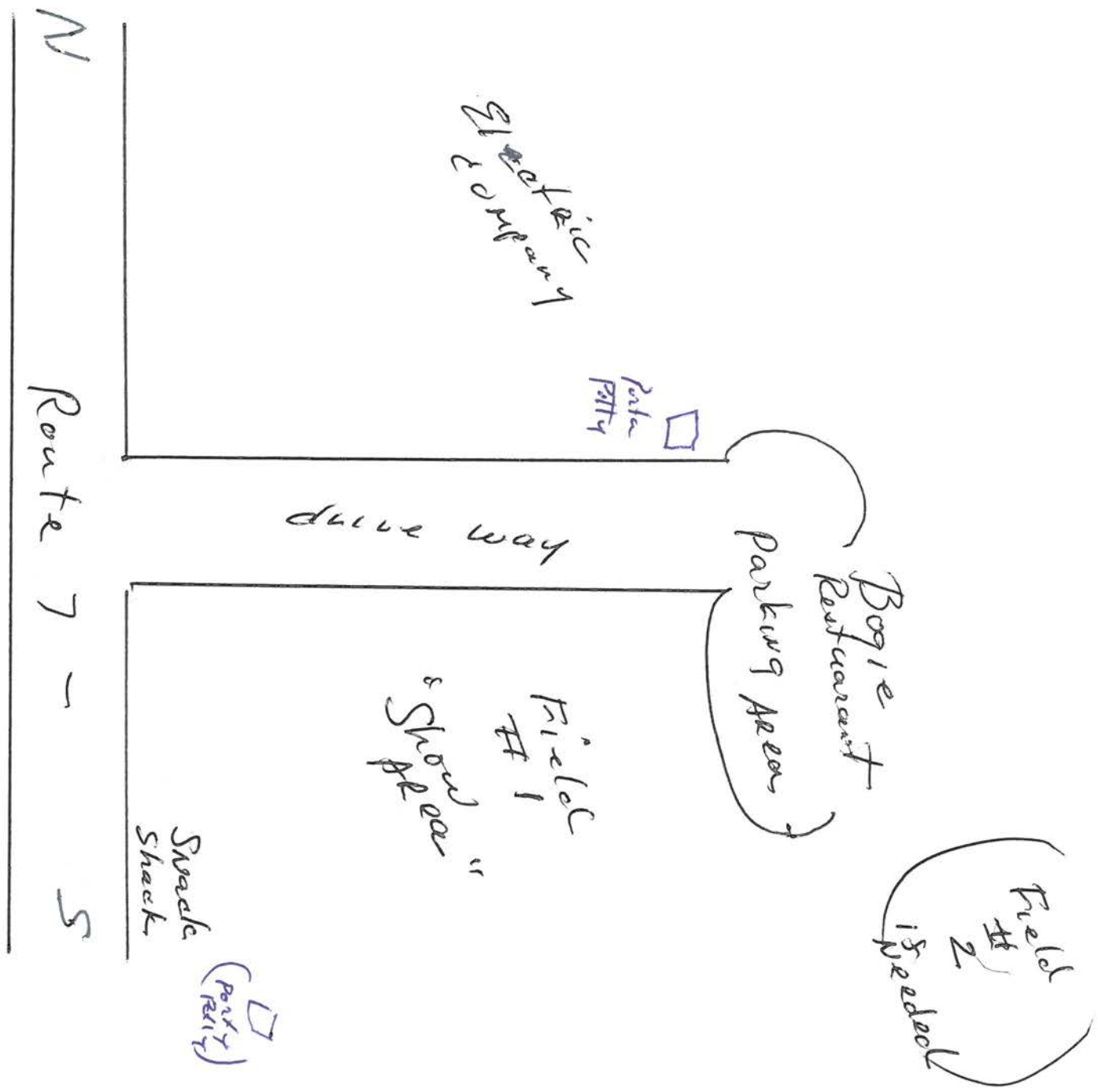
Town of Great Barrington,

I grant Olde Yankee Street Rods car club permission to use my property at 935 Main Street for a stationary car show on LaborDay weekend. If you have any questions I can be reached at 413-329-7730

Thank you,

A handwritten signature in cursive script, appearing to read "Rick Abdalla", with a long horizontal flourish extending to the right.

Rick Abdalla



Olde Yankee Street Rods & Classic Cruisers

52nd Car Show



Labor Day "Stationary Cruise"

Sept. 6, 2020 — rain or shine date Monday Sept. 7

"New Location" -- "face covering required"

Bogie's Restaurant

Route 7 -- Great Barrington, Ma.

¼ mile south of "VFW grounds"

first 250 - large participation dash plaques

Entry donation \$10.00

10:00 AM - Till — 3:00 PM

Vendors — Food — Music — Give away — Raffle — a great time

Web site -- Oldeyankeestreetrods.us

Poly Lanoue - 413-528-9304 --- Paul Menin - 413-229-8652 --- Roger Bailey - 413-329-7226

" PLEASE "

MAINTAIN

SOCIAL

DISTANCING

SB Cultural Council

SB August 10/20 meeting

Dear [Applicant Name]:

The [Municipality] Cultural Council is pleased to inform you that your application #[App number] we funded entitled [insert title of approved project] has been automatically granted a six month extension. **Due to the current strenuous conditions around the COVID 19 pandemic, we invite you to finish the public component of your project at a later date, move the public component of your project to an online format open to the public (Facebook live stream), or use the money to help offset any living expenses incurred during this difficult time.**

You are still required to fill out a reimbursement form to receive your grant award. **You are required to complete a reimbursement form within two weeks of completing your project for proof of project completion or if you decide to use the funds for COVID 19 relief.** Please indicate on the Summary of Expenses Form "COVID 19 Relief" if you are using the funds for that purpose. You may submit the reimbursement form by email or snail mail to [Name], [email] or by mail to [Municipality] Cultural Council, [address]

Please contact us if you have any questions.

Sincerely,

Helen Kuziemko

From: Ellen Shanahan <estitch03@verizon.net>
Sent: Friday, July 24, 2020 3:31 PM
To: Mark Pruhenski; Helen Kuziemko
Cc: Ellen Shanahan; rees@reesshad.com; Natasha Perlis
Subject: Re: Question from the Cultural Council

I believe, from speaking with Tate Coleman, this is a Select Board issue?

Sent from my iPhone

On Jul 6, 2020, at 9:39 AM, Ellen Shanahan <estitch03@verizon.net> wrote:

Resending, with an alternate email address for me in case my Verizon account is bouncing emails, which I recently heard it is doing!

Ellen

On Wednesday, June 24, 2020, 08:54:11 AM EDT, Ellen Shanahan <estitch03@verizon.net> wrote:

Resending 😊

Ellen

On Tuesday, June 2, 2020, 12:12:52 PM EDT, Ellen Shanahan <estitch03@verizon.net> wrote:

Hi, Mark---as you can imagine, many of our 20 grantees have been hit hard by COVID-19, with many not being able to hold programming in the foreseeable future. Massachusetts Cultural Council has recommended that local cultural councils provide funding anyway, as many of the groups have had to front costs incurred. This year the Great Barrington Cultural Council participated in a new pilot program where grantees received their funding up front (although some still have not put in the requests, and some applications are undoubtedly at Town Hall in the mail, as well). I've attached a pdf of a meeting of Councils across the state held in April via Zoom; if you look at page 8, you will see that we have been asked to reach out to the town to allow for the funding of grant projects, whether they take place or not in 2020. I've also attached a draft of a form letter we can send out (although most of the wording actually applies to councils not participating in the funding pilot).

My question: how do we bring this topic for approval from the Town of Great Barrington? Does it go to you, to the Select Board, some other group/person? We'd appreciate your guidance! Thanks!

Ellen Shanahan
Chair, Great Barrington Cultural Council
<Sample LCC COVID 19 message GBCC 6 2 20 meeting (1).docx>
<LCC Office Hour 4.1.20 for GBCC 6 2 20mtg (1).pdf>

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.

What if a program we fund is cancelled entirely?

We encourage you to work with your City/Town to see if there is a way to pay the grantee either a full or partial payment.

You can request a full payment of the grant to the grantee. If the municipality will not approve a full payment, see if they will make a partial payment based on invoices/expenditures provided by the grantee.

The Mass Cultural Council cannot require Cities and Towns to release grant payments to grantees whose programs have been cancelled, but we strongly encourage it given the severity of the current situation and how important those funds are to the cultural sector.

Jennifer Messina
Town Clerk

E-mail: jmessina@townofgb.org
www.townofgb.org




Town Hall, 334 Main Street
Great Barrington, MA 01230

Telephone: (413) 528-1619 x3
Fax: (413) 528-1026

TOWN OF GREAT BARRINGTON MASSACHUSETTS

OFFICE OF THE TOWN CLERK

TO: Selectboard

FROM: Jennifer L. Messina, Town Clerk 

DATE: August 6, 2020

RE: Election Officers

According to M.G.L. Chapter 54, section 12, the Selectmen shall annually, appoint the election officers for each voting place within the town. I respectfully request that the following people be appointed for FY'21:

Judith Arienti
Marlene Atwood
Maureen Avery
Barbara Bailly
Irene Bara
Marion Barry
Ann Belanger
Isiah Bennett
Marilyn Bisiewicz
Abby Boyd
Elizabeth Budz
Christine Coons
Richard Coons
Judith Corbett
Maggie D'Aniello
Jessica Dezieck
Patricia Dymek
Frederick Dymek
William Fields
Patrick Fennell
Denise Flynn
Paul Gibbons
Michele Gilligan
Jane Green
Joseph A. Grochmal
Margaret Hassett
Jean Holcomb

Patricia Hoskeer
Donald Howe
Carolyn Ivory
Paul Ivory
Harry Jennings
Deborah Kain
Laura Keefner
Marjorie Keefner-West
Cathleen Kinne
Kathleen Kotleski
Ethel Kramer
Matt Kuziemko
Lois Larkin
Linda Lavoie
Fran Locke
Michelle Loubert
Barbara Louison
Donna MacDowell
Karina Mahida
Rosemary McAlister
Linda McMeekin
Carol Mead
Madonna Meagher
Theresa Moore
Bruce Morelli, Sr.
Andrew C. Moro
Ellen Murtaugh

Lynn Nettleton
John Passetto
Virginia Passetto
Susan Pettee
Kathleen Plungis
Frances Premerlani
Larry Premerlani
Laurel Ralph
Donald Rembisz
Patricia Salvi
Linda Santos
Sheila Shepardson
Michele Shimon
Terry Smith
Margaret Soule
Carol Strommer
Steve Strommer
Christine Tarnawa
Kerry Toohig
John Tossavainen
Marcia Trombley
Howard Trombley
Nick VanSant
Christine Ward
Michael Wise

***New appointment**