

Mark Pruhenski  
Town Manager

E-mail: [mpruhenski@townofgb.org](mailto:mpruhenski@townofgb.org)  
[www.townofgb.org](http://www.townofgb.org)



Town Hall, 334 Main Street  
Great Barrington, MA 01230

Telephone: (413) 528-1619 x2  
Fax: (413) 528-2290

## TOWN OF GREAT BARRINGTON MASSACHUSETTS

### OFFICE OF THE TOWN MANAGER

Selectboard Meeting Agenda  
Monday August 24, 2020, at 6:00 PM  
Meeting held via Zoom

#### Order of Agenda

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85853838565?pwd=dVZrLyt0YzR1c0xncUtlVGNVL3VmUT09>

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

Webinar ID: 858 5383 8565

Passcode: 532532

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 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](http://www.townofgb.org). For this meeting, members of the public who wish to listen to the meeting may do so by following the 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

1. CALL TO ORDER
2. SELECTBOARD TO CONVENE AS BOARD OF SEWER COMMISSIONERS:
  - a. Sewer abatements for the period of July 31, 2019 to December 31, 2019 (Discussion/Vote)
3. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS:
  - a. General Comments by the Board.
4. TOWN MANAGER'S REPORT:
  - a. Department Updates
  - b. Project Updates
    - i. Update on the Housatonic Water Works Company, Inc.
    - ii. Letter to DPU/Invite to DPU

- iii. Dog Enforcement
- iv. Cook's Garage Water Update

5. PUBLIC HEARINGS:

- a. Special Permit application from Hillcrest Educational Centers, Inc., to operate a group home at 6 Ramsdell Road, Great Barrington, per Sections 7.6 and 10.4 of the Zoning Bylaw. (Discussion/Vote)
  - i. Open Public Hearing
  - ii. Explanation of Project
  - iii. Speak in Favor/Opposition
  - iv. Motion to Close or Continue Public Hearing
  - v. Motion re: Findings
  - vi. Motion re: Approval/Denial/Table
- b. 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, 9.2 and 10.4 of the Zoning Bylaw. (Continued from August 10) (Discussion/Vote)
  - i. Re-Open Public Hearing
  - ii. Explanation of Project
  - iii. Speak in Favor/Opposition
  - iv. Motion to Close or Continue Public Hearing
  - v. Motion re: Findings
  - vi. Motion re: Approval/Denial/Table
- c. 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. (Continued from August 10) (Discussion/Vote)
  - i. Re-Open Public Hearing
  - ii. Explanation of Project
  - iii. Speak in Favor/Opposition
  - iv. Motion to Close or Continue Public Hearing
  - v. Motion re: Findings
  - vi. Motion re: Approval/Denial/Table

6. LICENSES OR PERMITS:

- a. Richard Rothbard/American Art Marketing for three (3) temporary Weekday Entertainment License for their Berkshire Arts Festival to be held at 389 Stockbridge Road on Saturday August 29, Saturday September 5, and Saturday October 10, 2020. (Discussion/Vote)
- b. Richard Rothbard/American Art Marketing for three (3) temporary Sunday Entertainment License for their Berkshire Arts Festival to be held at 389 Stockbridge Road on Sunday August 30, Sunday September 6, and Sunday October 11, 2020. (Discussion/Vote)
- c. Justin Thomson for a Driveway Permit at 64 Castle Hill Avenue. (Discussion/Vote)

7. NEW BUSINESS:

- a. Appointment of Member to the Conservation Commission (Discussion/Vote)
- b. Bottle Ban extension (Discussion/Vote)
- c. Request to increase advertising fees due to increased advertising costs. (Discussion/Vote)

- d. Review and Approve the final draft of the 2020 Special Town Meeting Warrant articles.  
(Discussion/Vote)
8. 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.*
9. SELECTBOARD'S TIME:
10. MEDIA TIME:
11. ADJOURNMENT:

NEXT SELECTBOARD MEETING:

Tax Classification Hearing September 9, 2020  
Selectboard Regular Meeting September 14, 2020  
Special Town Meeting September 15, 2020

/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 be brought up for discussion to the extent permitted by law.*

Mark Pruhenski  
Town Manager

E-mail: [mpruhenski@townofgb.org](mailto:mpruhenski@townofgb.org)  
[www.townofgb.org](http://www.townofgb.org)



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## TOWN OF GREAT BARRINGTON MASSACHUSETTS

OFFICE OF THE TOWN MANAGER

August 17, 2020

Ms. Nancy Stevens  
Director- Consumer Division  
Massachusetts Department of Public Utilities  
One South Station  
Boston, MA 02110

**RE: Request for Rate Adjustment/Housatonic Water Works Inc.**

Dear Ms. Stevens,

After hearing from a number of residents troubled with the quality of drinking water provided to them as customers of Housatonic Water Works Inc., the Selectboard voted unanimously at its regular meeting of August 10, 2020 to request that the Massachusetts Department of Public Utilities consider a rate adjustment for all impacted Housatonic Water Works customers.

The motion approved that night is as follows:

*To instruct the Town Manager to draft a letter requesting that the Massachusetts Department of Public Utilities work with Housatonic Water Works Inc. to offer a rate adjustment to their customers impacted by the most recent water discoloration in accordance with any/all Massachusetts Department of Public Utilities (DPU) regulations.*

Please feel free to reach out to me directly if you have any questions or would like to discuss this in more detail.

Best,

Mark A. Pruhenski  
Town Manager

cc: SB

# 5 a

**TOWN OF GREAT BARRINGTON**

**NOTICE OF PUBLIC HEARING**

The Great Barrington Selectboard will hold a Public Hearing on Monday, August 24, 2020 at 6:00 pm, to act on the Special Permit application from Hillcrest Educational Centers, Inc., 788 South Street, Pittsfield, MA, to operate a Group Home at 6 Ramsdell Road, Great Barrington. The application is filed per Sections 7.6 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 will not be permitted. Instructions for participating in the Hearing will be listed on the Selectboard's August 24, 2020 agenda, which will appear on the Town's website, [www.townofgb.org](http://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 23 and July 30, 2020  
Berkshire Eagle

STEPHEN C. BANNON  
CHAIR

ED ABRAHAM  
BILL COOKE  
KATE BURKE  
LEIGH DAVIS



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TOWN OF GREAT BARRINGTON  
MASSACHUSETTS

SELECTBOARD

SPECIAL PERMIT # 912-20

NAME, ADDRESS, AND PROJECT:

Hillcrest Educational Centers, Inc., 788 South Street, Pittsfield, MA, for a Group Residence at 6 Ramsdell Road, Great Barrington, filed per Sections 7.6 and 10.4 of the Zoning Bylaw.

REVIEW MEETINGS

These Boards and Commissions will hold meetings on the following dates to consider the application and make a recommendation to the Selectboard (dates may be subject to change).

CONSERVATION COMMISSION Wednesday, July 22, 2020, 6:30 PM

BOARD OF HEALTH Thursday, August 6, 2020, 6:30 PM

PLANNING BOARD Thursday, August 13, 2020, 6:00 PM

SPECIAL PERMIT PUBLIC HEARING

The **PUBLIC HEARING** before the **SELECTBOARD** is scheduled for:  
Monday, August 24, 2020 at 6:00 PM.

SB 8/24/20

**TOWN OF GREAT BARRINGTON**  
Application for a Special Permit  
to the Board of Selectmen or Planning Board

FORM SP-1  
REV. 11-2013

FOR OFFICE USE ONLY

Number Assigned \_\_\_\_\_ Date Received \_\_\_\_\_  
Special Permit Granting Authority \_\_\_\_\_  
Copy to Recommending Boards \_\_\_\_\_  
Advertised \_\_\_\_\_ & \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Fee: \$150.00 Paid: \_\_\_\_\_

APPLICATION FOR SPECIAL  
PERMIT UNDER TOWN ZONING  
BYLAWS FOR TOWN OF  
GREAT BARRINGTON,  
MASSACHUSETTS

MAP 35 LOT 39C BOOK 2538 PAGE 317 ZONING DISTRICT(s) R2

Site Address: 6 Ramsdell Rd

Date of Application \_\_\_\_\_

Applicant's name and complete mailing address Hillcrest Educational Centers, Inc.  
788 South St., Pittsfield, MA 01201

Applicant's phone number (413) 499-7924 Applicant's email address: jsorrentino@hillcrest  
educationalcenters.org

Name and Address of Owner of land exactly as it appears on most recent tax bill:

Jose F. Huertas and Gloria Escobar  
6 Ramsdell Rd., Great Barrington, MA 01230

I (we) request a Special Permit for: Group Residence

Under Section(s) 7.6 and 10.4 of the Great Barrington Zoning Bylaws.

**APPLICANTS MUST READ AND COMPLY WITH THE FOLLOWING:**

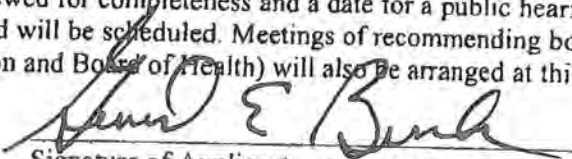
One Signed Original application with each of the items below, as applicable, and fourteen (14) exact copies of the entire application package are to be submitted. Applications must include:

1. Completed application form, including signatures.
2. Brief written description of how the project is in harmony with the Great Barrington Master Plan. (Copies of the Master Plan are available for free download from the Town website. Hard copies can be read at the Clerk's office or the Town libraries.)
3. Site Plan, drawn to scale, applicable to the site and the proposed use of said site for which this special permit is requested.
4. Any other specifications necessary to further describe the site or proposed use for which a special permit is requested. At least one copy of any maps being submitted shall be no larger than 11" X 17". Plans should show all existing and proposed structures, property lines and dimensions, driveways, walkways and parking areas. All proposed landscaping, parking, loading, and similar improvements must be in compliance with the applicable sections of the Zoning Bylaw.
5. Certified list of abutters within 300' on the Assessors Maps to the subject property, including map and lot number. List must be obtained from the Assessors' Office.

- 6. Zoning Map designating the zoning district(s) and location for the area for which a special permit is requested, plus a USGS map enlarged and showing the site location within the Town.
- 7. Drainage Plan indicating the destination of all runoff from the property. In the event of substantial increase in impervious surfaces, the SPGA may require calculations or expert analysis of the plan.
- 8. Landscaping Plan drawn to scale and showing existing and proposed landscaping.
- 9. If applicant and owner are different, a letter signed by the owner of the property authorizing the applicant to apply for the special permit.

SPECIFICS:

- 1. All site plans and specifications must be signed and dated by the preparer.
- 2. ALL OWNERS of property must also sign the application.
- 3. A copy of special permit procedures is available upon request.
- 4. Fee for application is \$150.00 to cover the cost of the public hearing notices in the newspaper and notification to parties in interest. If the cost exceeds \$150.00, the applicant shall pay the balance due upon notification from the Granting Authority.
- 5. Once all the necessary papers, maps, etc. are compiled into the required Original and Fourteen sets, call the Town Planner's office at 413-528-1619 ext. 7 to arrange an appointment to file your application. The application will be reviewed for completeness and a date for a public hearing before the Board of Selectmen or Planning Board will be scheduled. Meetings of recommending boards (e.g. Planning Board, Conservation Commission and Board of Health) will also be arranged at this time.

  
 Signature of Applicant Gerard E. Burke, Pres.  
 Hillcrest Educational Centers, Inc.

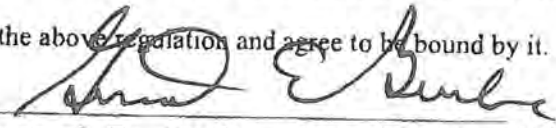
\_\_\_\_\_  
 Signature of Co-Applicant (e.g. Property Owner, if different)

\*\*\*\*\*

PLEASE READ AND SIGN BELOW

ALL COSTS INCURRED BY THE TOWN FOR THE EMPLOYMENT OF EXPERTS OR CONSULTANTS REQUIRED BY ANY TOWN BOARD, AND APPROVED BY THE BOARD OF SELECTMEN, FOR THE PURPOSE OF ANALYZING OR EVALUATING ANY PROJECT THAT IS A SUBJECT OF A SPECIAL PERMIT APPLICATION SHALL BE ASSESSED TO THE APPLICANT AND SHALL CONSTITUTE PART OF THE APPLICATION FEE. A COPY OF THIS REGULATION SHALL BE PROVIDED TO THE APPLICANT IF REQUESTED.

I have read the above regulation and agree to be bound by it.

Signature   
 Gerard E. Burke, President, Hillcrest Educational Centers, Inc.  
 Signature of Co-Applicant (e.g. Property Owner) \_\_\_\_\_

Date 7-7-2020



BARRY & DOYLE  
ATTORNEYS AT LAW  
8 BANK ROW  
PITTSFIELD, MASSACHUSETTS 01201

Anthony P. Doyle, Esq.  
anthony.doyle@apdoylelaw.com

Tel (413) 499-1701  
Fax (413) 448-6223

July 13, 2020

Town of Great Barrington  
Select Board  
334 Main St  
Great Barrington, MA  
Attn: Stephen C. Bannon, Chair

RE: Hillcrest Educational Centers Inc.  
6 Ramsdell Rd

Dear Mr. Bannon:

Hillcrest Educational Centers, Inc. has applied for a special permit to operate a group residence at 6 Ramsdell Rd., which was purchased from Jose F Huertas and Gloria Y Escobar on March 31, 2020.

It is our intent to operate the facility in conjunction with our Brookside program. This home would be a transitional step for students who have completed the Brookside program and are in the process of returning to their communities. The facility will house three students and two staff members (24 hours), to assist them in transitioning back to their communities.

As you may know, Hillcrest Educational Centers provides residential care for children and adolescents with serious emotional and/or developmental challenges. Serving youth on four campuses, each with a distinct population, we ensure our students receive an intensive therapeutic experience in a safe, trauma-informed setting. Utilizing a variety of evidence-based practices, students who have suffered past trauma and/or school failure, learn new skills that help replace high-risk behaviors with self-regulation and safe decision-making, resulting in improved relationships and academic success.

The property is located in an R2 residential zone and is adjacent to the Brookside campus located at 5 Ramsdell Rd.

Chapter 40A section 3 provides for certain exemptions for educational uses. We believe that the proposed use of the property is the best contemplated use for the premises.

Application is being made pursuant to section 7.6 of the Zoning By-laws which allows for "Private schools, other educational uses and *group homes* (emphasis added). We meet all the criteria set forth in that section of the By-laws.

We will have no adverse effect on attendance at Public Schools

There will be no increase in vehicular traffic.

There will be no change in the number of legal residents.

There will be no increase in municipal services or usage costs.

There will be no adverse effect on Public Utilities.

There will be no increase in the requirement for fire and police protection.

We pay the town through a PILOT program which will continue.

Section 10.4 allows for the issuance of special permits under conditions enumerated in section 10.4.2. We believe we also meet all of that criteria.

The character of the neighborhood will not be adversely affected. The property is across the street from one of our campuses and will be used in conjunction with that use.

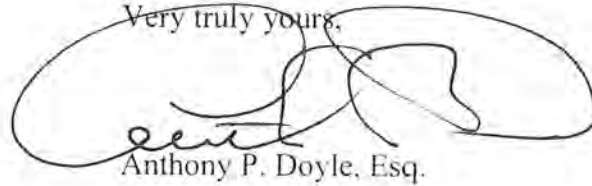
There will be no adverse change in the traffic of the neighborhood or the utilities servicing the neighborhood. Nor will there be any adverse environmental impact or adverse fiscal impact on other town services, or employments.

The premises received a certificate of occupancy from Thomas Carmody, on March 7, 2007 with no conditions.

We are excited to be able to offer this residence to our students and look forward to working with town officials to bring this to fruition.

Please do not hesitate to contact me if you have any questions.

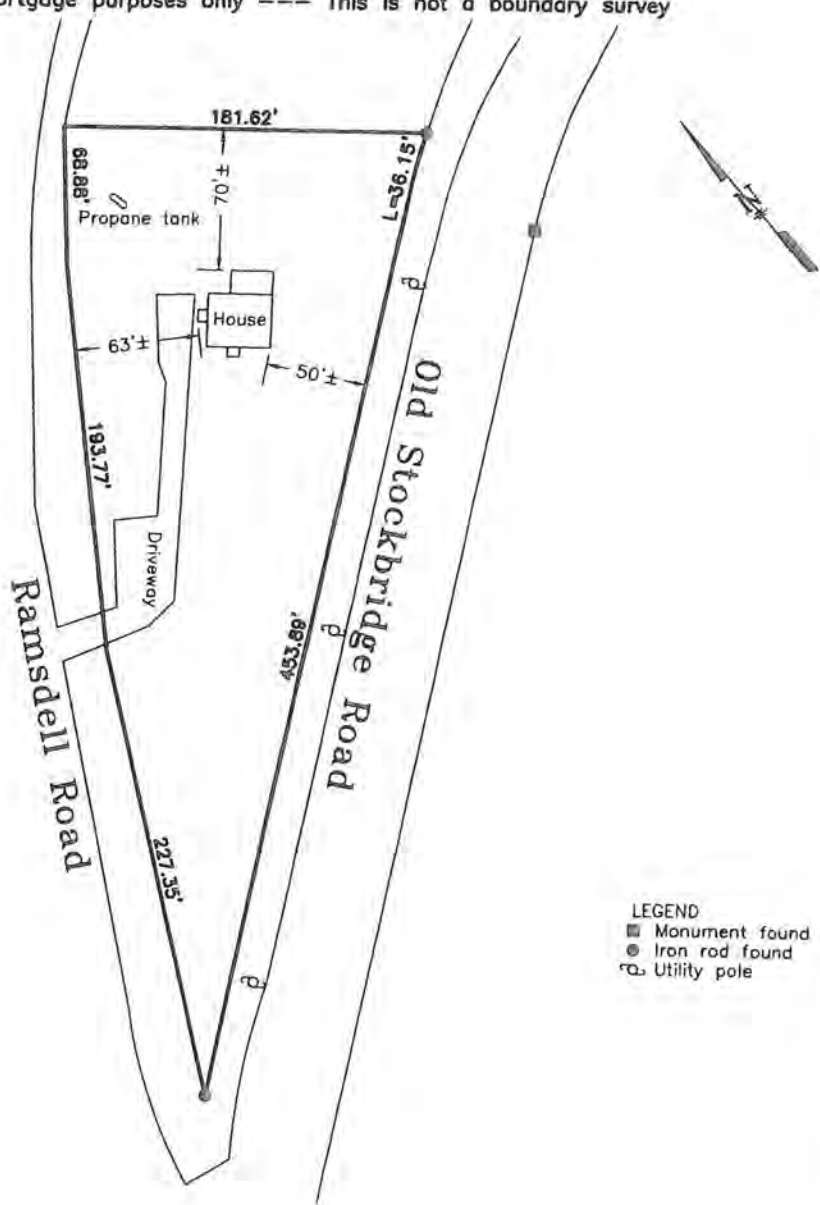
Very truly yours,

A handwritten signature in black ink, appearing to read 'Anthony P. Doyle', is written over the text 'Very truly yours,'. The signature is stylized and cursive.

Anthony P. Doyle, Esq.

Encl.

For mortgage purposes only --- This is not a boundary survey



LEGEND  
 ■ Monument found  
 ● Iron rod found  
 ○ Utility pole

I HEREBY REPORT THAT MEMBERS OF OUR FIRM HAVE EXAMINED THE PREMISES SHOWN, AND TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, ALL BUILDINGS, PROPERTY LINES, VISIBLE EASEMENTS AND ENCROACHMENTS ARE LOCATED ON THE GROUND APPROXIMATELY AS SHOWN, AND THAT THEY DO NOT CONFORM WITH THE CURRENT ZONING REGULATIONS AS THEY PERTAIN TO LOT AREA AND SETBACKS FROM STREET AND PROPERTY LINES.

I FURTHER REPORT THAT THIS PROPERTY LIES IN FLOOD ZONE "C" (AREAS OF MINIMAL FLOODING) AS SHOWN ON FEDERAL FLOOD INSURANCE RATE MAP NUMBER 250024-0004 B DATED 7/19/82

*Russell D. Sackett, Jr.* 1/31/20  
 RUSSELL D. SACKETT, JR. M.A.S. P.L.S. NO. 33944

ZONE	R2	REQUIRED	7.6.4	HOUSE
MINIMUM LOT WIDTH		150'	-	430'±
MINIMUM FRONTAGE		120'	-	490.04'
FRONT SETBACK		50'	-	50'±/63'±
SIDE SETBACK		20'	50'	70'±
REAR SETBACK		30'	60'	N/A
MINIMUM LOT AREA		43,560	-	1.1AC

\* LESS THAN CURRENT MINIMUM ZONING REQUIREMENTS PROPERTY DIMENSIONS PER PLAN  
 Great Barrington Zoning Bylaw; 7.6 Private Schools, 7.6.4 Special Permit; Group Home.

Scale: 1" = 60'

0 60 120

This plan shows buildings on the ground and approximate property lines per the current deed referenced below for the property, and per a site investigation. The purpose of this plan is to determine physical encumbrances on the property for use by lending institutions and title insurance companies. This plan is not the result of an accurate and conclusive boundary survey, or complete deed or title research. Locations shown are approximate and are not sufficient to be used for the layout of property lines, building construction, or the erecting of fences. Subject to any and all recorded or unrecorded rights-of-way, easements, restrictions, and/or encumbrances in force and applicable, if any.



**SACKETT SURVEY SERVICES, INC.**  
 179 First Street  
 Pittsfield, MA 01201  
 TEL (413) 499-2285  
 FAX (413) 499-0038

### Mortgage Inspection Plan

Owner: Jose F. Huertas  
 Address: 9 Ramsdell Road  
 Pittsfield, Berkshire County, Massachusetts  
 Deed book: 1756 Page: 57 Plans: Plat M, #78

Drn: MLG Date: 1/31/20 Dwg: MIP-3365-Rev 1

Bruce Firger, Assessor  
John Katz, Assessor

Shaun McHugh, Principal Assessor  
E-mail: [smchugh@townofgb.org](mailto:smchugh@townofgb.org)

Carol Strommer  
Administrative Assessor  
E-mail: [cstrommer@townofgb.org](mailto: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

July 7, 2020

ABUTTERS TO PROPERTY OF: HILLCREST EDUCATIONAL CENTERS INC.  
6 Ramsdell Road, Map 35 Parcel 39C, Book 2583 Page 317

<u>MAP</u>	<u>LOT</u>	<u>ABUTTER</u>
35	39A,39B,38A	Nancy Bello, 35 East 9 <sup>th</sup> St. #4, New York, NY 10003-6351
35	40	Donald Cook & Margaret B. Hawley, 9 Ramsdell Rd., Gt. Barrington, MA 01230-1147
35	38	Harold Schrager & Cathy Kogan, 10 Ramsdell Rd., Gt. Barrington, MA 01230-1147
36	1	Commonwealth of Massachusetts, Dept. of Environmental Management, 251 Causeway St. #700, Boston, MA 02114-2154
35	39,41	Hillcrest Educational Centers Inc., applicant

The above list of abutters to the subject property is correct according to the latest records of this office.

Sincerely,

  
Shaun McHugh  
Principal Assessor

# Town of Great Barrington ZONING MAP

Prepared by the Executive Regional Planning Commission  
March 2003 (Revised August 2003)

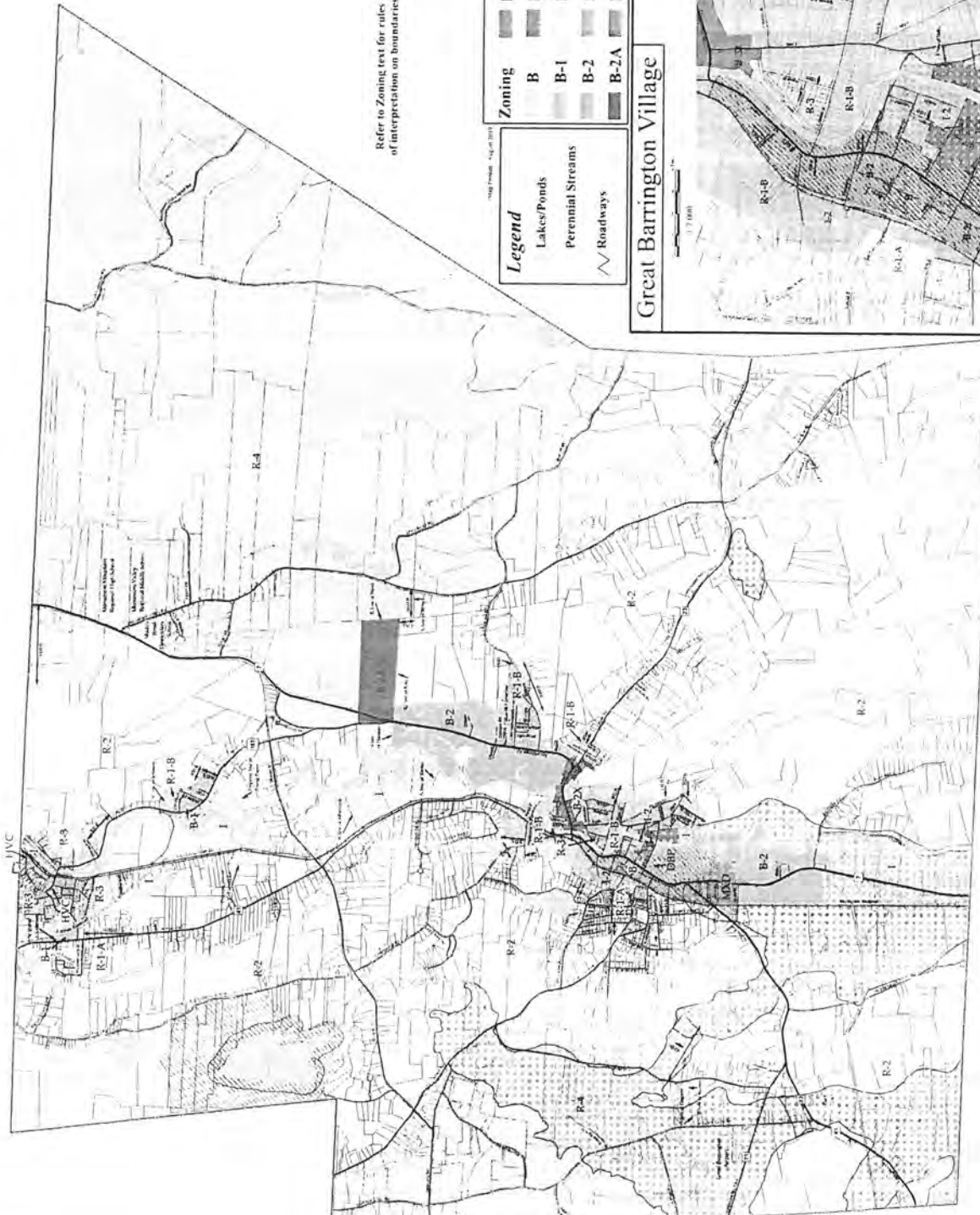
- RESIDENTIAL**
- R-1-A One-Family Medium Density (10,000 sq. ft.)
  - R-1-B One-Family High Density (6,500 sq. ft.)
  - R-2 Average Residential (2 acres)
  - R-3 General Residential (2 acres)
  - R-4 Large Average Residential (2 acres)

- BUSINESS**
- B Downtown Business
  - B-1 Neighborhood Business
  - B-2 General Business
  - B-2-A Transitional Business
  - B-2-X State Road Mixed Use
  - B-3 Downtown Mixed-Use
  - DBP Downtown Business Parking
  - HVC Housatonic Village Center
  - MXD Mixed Use Traditional

- INDUSTRIAL**
- I Light Industry
  - I-2 Industrial / Multi-Family

- OVERLAY DISTRICTS**
- VCOD Village Center Overlay District (see Section 9.8)
  - HMROD Housatonic Mills Revitalization Overlay District (see Section 9.8)
  - HVOD Housatonic Village Overlay District (see Section 9.10)
  - WQPOD Water Quality Protection Overlay District (see Section 9.2)
  - SGOD Smart Growth Overlay District (see Section 9.13)

See also:  
Housatonic Village Center District Map  
Water Quality Protection District Map  
Smart Growth District Map



Refer to Zoning text for rules  
of interpretation on boundaries

## Legend

- Lakes/Ponds
- Perennial Streams
- Roadways

- Zoning**
- B B
  - B-1 B-1
  - B-2 B-2
  - B-2-A B-2-A
  - B-2-X B-2-X
  - B-3 B-3
  - DBP DBP
  - HVC HVC
  - MXD MXD

- I I
- I-2 I-2
- R-1-A R-1-A
- R-1-B R-1-B
- R-2 R-2
- R-3 R-3
- R-4 R-4
- HMROD HMROD
- HVOD HVOD
- SGOD SGOD
- VCOD VCOD
- WQPOD WQPOD
- Zone II Zone II
- Surface Water Zone A Surface Water Zone A
- Surface Water Zone B Surface Water Zone B

## Great Barrington Village



## Housatonic Village



Shepley Evans  
Conservation Agent

E-mail: [conservation@townofgb.org](mailto:conservation@townofgb.org)  
[www.townofgb.org](http://www.townofgb.org)



SB file

Town Hall, 334 Main Street  
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Fax: (413) 528-2290

## TOWN OF GREAT BARRINGTON MASSACHUSETTS

### CONSERVATION COMMISSION

July 15, 2020

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

Re: SPECIAL PERMIT # 912-20  
Application of Hillcrest Educational Centers, Inc.  
for a Group Residence at 6 Ramsdell Road.

Having reviewed Town maps and the Mass Geographic Information System, and having conducted a brief site visit at 6 Ramsdell Road, it has been determined that the Conservation Commission has no jurisdictional interest or issue with the use of the subject property.

Respectfully,

Shepley W. Evans  
Conservation Agent

CC: Jeffrey Cohen  
Chris Rembold



TOWN OF GREAT BARRINGTON  
MASSACHUSETTS

PLANNING BOARD

August 17, 2020

Selectboard  
Town Hall  
334 Main Street  
Great Barrington, MA 01230

Re: Special Permit #912-20  
6 Ramsdell Road

Dear Members of the Selectboard:

At its meeting of August 13, 2020, the Planning Board voted to send a positive recommendation on the special permit application submitted on behalf of Hillcrest Educational Centers, Inc for a group home at 6 Ramsdell Road. The Planning Board noted that the bylaw allows for 5 full time residents. If there are going to be more than 5 full time residents it would need to be specified in the application.

Thank you for the opportunity to comment.

Sincerely,

*Kimberly L. Shaw*

Kimberly L. Shaw  
Planning Board Secretary

Cc: Chris Rembold, Town Planner



Michael Lanoue, Chair  
Peter Stanton, Vice Chair  
Ruby Chang, M.D.  
www.townofgb.org



Town Hall, 334 Main Street  
Great Barrington, MA 01230

Phone: 413-528-0680  
Fax: 413-528-3064

TOWN OF GREAT BARRINGTON  
MASSACHUSETTS

BOARD OF HEALTH

August 14, 2020

**Special Permit #912-20:** Hillcrest Educational Centers, Inc., 788 South Street, Pittsfield, MA, for a Group Residence at 6 Ramsdell Road, Great Barrington, filed per Section 7.6 and 10.4 of the Zoning Bylaw.

Dear Selectboard,

The Health Department reviewed Special Permit application #912-20 and there is no jurisdictional content or related health concerns in the proposed application.

Sincerely,

Rebecca Jurczyk  
GB BOH Agent

**EXHIBIT A****FINDINGS OF FACT AND BASIS FOR DECISION**

**Re: Special Permit #912-20  
6 Ramsdell Road**

**A. Introduction**

This Special Permit application was filed on July 14, 2020 by Hillcrest Educational Centers, Inc, 788 South Street, Pittsfield, Great Barrington, (“Applicant”), represented by John A. Barry, Jr. and Anthony P. Doyle, Esq., to operate a group residence at 6 Ramsdell Road, Great Barrington, in accordance with Section 7.6 of the Zoning Bylaw. The application includes a property plan prepared by Sackett Survey Services, Inc. and a narrative prepared by its attorney, Mr. Doyle, which responds to the requirements of Section 7.6 and provides information relative to the Special Permit criteria of Section 10.4.

**B. General Findings**

The site is in the R-2 (Acreage Residential) zoning district. The site as currently configured consists of a wedge shaped parcel with a single family residence, is approximately 1,400 square feet, situated on a conforming 1.1 acre lot on the easterly side of Ramsdell Road and northerly side of Old Stockbridge Road, as shown on the property plan. The site’s surroundings include other buildings and grounds of Hillcrest and several residences.

The house was built in 2006 and sold to the Applicant this past March, 2020. The site is served by a driveway off of Ramsdell Road. The house is served by Housatonic Water Works and Great Barrington town sewer.

As described in the narrative, the Applicant has purchased the site seeks to utilize the existing building as a group home in conjunction with the adjacent educational campus. It will house three students and there will be two staff members supervising.

The Conservation Commission reviewed the proposal and has determined it has no jurisdictional interest or issue in the property (see memo dated February 26, 2020).

The Health Department reviewed the proposal and has determined it has no jurisdictional interest or related health concerns with the proposal.

The Planning Board reviewed the special permit application and made a positive recommendation to the Selectboard.

**C. Group Home Findings**

The application includes a satisfactory response to the 8 filing requirements of Section 7.6.2. The Selectboard finds, per Section 7.6.4, that the proposed Group Home meets the dimensional requirements specified and that the total residents will not exceed five.

**D. Special Permit Criteria and Findings**

Section 10.4.2 of the Zoning Bylaw, granting of a special permit requires a written determination by the Special Permit Granting Authority “that the adverse effects of the proposed use will not outweigh

its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.” This determination shall include consideration of the following criteria:

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

The Board’s considerations in relation to each of the six special permit criteria are set forth below.

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

The Board finds that the proposed group home will serve social and community needs by providing full time support for those with emotional and development challenges.

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

The site will remain a residence, and therefore the Board finds that the proposal will not increase traffic or decrease safety.

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

The site is already served by drinking water and sewer systems, and 3 residents will have no discernable impact to public health, fire, or police services. The Board finds utilities and services are adequate.

Criterion 4.     *Neighborhood character and social structures.*

No further development of the site will occur, therefore the Board finds that the proposal will not alter the neighborhood character.

Criterion 5.     *Impacts on the natural environment.*

No further development of the site will occur, therefore the Board finds that the proposal will have no negative impacts on the environment.

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

The Board finds that the facility will not negatively impact town services, and, while the property will become tax-exempt, Hillcrest will incorporate this site into its payment in lieu of taxes agreement with the Town.

Finding:

In consideration of the above Findings, the Board finds that possible benefits of the proposal do not outweigh possible detrimental impacts of the proposal.

**SP # 912-20**

Special Permit application Hillcrest Educational Centers, Inc., 788 South Street, Pittsfield, MA, for a Group Residence at 6 Ramsdell Road, Great Barrington, filed per Sections 7.6 and 10.4 of the Zoning Bylaw.

**DRAFT MOTIONS**

1. VOTE ON FINDINGS

*(If the Board has amended the Findings based on the Public Hearing and its discussion, be sure to specify those changes and approve the findings "as amended.")*

Move to approve the Findings of Fact for Special Permit #912-20, [as written, or, as amended] and referenced as Exhibit A.

**Second:** \_\_\_\_\_

**Roll call vote:** Davis \_\_\_\_\_ Burke \_\_\_\_\_ Cooke \_\_\_\_\_  
Abrahams \_\_\_\_\_ Bannon \_\_\_\_\_

2. VOTE ON SPECIAL PERMIT

Move, in view of the approved Findings of Fact, to approve Special Permit #912-20

**Second:** \_\_\_\_\_

**Roll call vote:** Davis \_\_\_\_\_ Burke \_\_\_\_\_ Cooke \_\_\_\_\_  
Abrahams \_\_\_\_\_ Bannon \_\_\_\_\_

## 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](http://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>

New since last meeting:

<https://www.dropbox.com/s/a1ergjaxahfry3u/Guidos%20Add.%20Info%20%2B%20Landscaping.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 percentage 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 Future (Actual x % Increase)	F&O Increase	Stantec v F&O Difference
AM	22	61	135	221%	49	27	38
PM	169	197	358	182%	307	138	10
Sat	251	249	432	173%	435	184	-16
Floor Area (SF)		15900	35225	209%			
		LUC 850 fitted PM, SAT Avg AM	LUC 850 fitted PM, SAT 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  
Page 6 of 8

**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 Queuing**

The traffic study includes calculations for vehicle queuing 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 queuing is appropriate to determine if these scenarios might arise in the future.

The vehicle queuing information for the most critical peak hour, the Saturday midday peak hour, are reported in Figure 1 for Build conditions. Average and 95<sup>th</sup> 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 50<sup>th</sup> percentile vehicle queue is only eight feet and the 95<sup>th</sup> percentile vehicle queue is 23 feet, approximately one car length. The separation between



August 6, 2020  
Christopher Rembold, AICP  
Page 7 of 8

**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 95<sup>th</sup> 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 95<sup>th</sup> 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.**

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

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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 August 13, 2020, the Planning Board voted to send a positive recommendation on the waiver request submitted on behalf of Guido's Fresh Marketplace located at 760 & 770 Main Street. The applicant has requested a deviation, under 6.2.8, of the Required Tree section, 6.2.7, of the bylaws. The applicant has requested planting 4 trees and maintaining another existing 4 trees. The applicant requested the waiver of planting 9 additional trees as required under 6.2.7.

Thank you for the opportunity to comment.

Sincerely,

*Kimberly L. Shaw*

Kimberly L. Shaw  
Planning Board Secretary

Cc: Chris Rembold, Assistant Town Manager

Michael Lanoue, Chair  
Peter Stanton, Vice Chair  
Ruby Chang, M.D.  
www.townofgb.org



Town Hall, 334 Main Street  
Great Barrington, MA 01230

Phone: 413-528-0680  
Fax: 413-528-3064

## TOWN OF GREAT BARRINGTON MASSACHUSETTS

### BOARD OF HEALTH

August 14, 2020

**Special Permit #911-20:** Special Permit application from Guido's Realty, Inc., 1020 South Street, Pittsfield, MA, special permit application for construction of a large scale commercial development and 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, storm water, utilities and site work. The application is filed per Sections 3.1.4 C(11)

Dear Selectboard,

The Health Department reviewed Special Permit application #911-20 at the recent Board of Health meeting on August 6, 2020. The Board agreed the application did not contain any jurisdictional content. However, the applicants will be required to submit plans detailing all construction and renovations of food storage, display, and preparation areas to the Health Department.

**MOTION:** SP#911-20 passed on to the Selectboard. – Peter Stanton.

**SECOND:** Dr. Ruby Chang.

**VOTE:** 3-0 unanimous

Sincerely,  
Rebecca Jurczyk  
GB BOH Agent



**EXHIBIT A****FINDINGS OF FACT AND BASIS FOR DECISION**

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

**A. Introduction**

This Special Permit application was submitted on July 2, 2020 by Guido's Realty, Inc. ("Applicant") for construction of a large scale commercial development and 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 at this site and the adjacent site under the same ownership, 770 Main Street.

The application includes a detailed set of plans prepared by SK Design Group, Inc. (SKDG), a project narrative, lighting and landscaping details, and a stormwater report, all prepared by SKDG, architectural elevations, and a traffic impact analysis report prepared by Fuss & O'Neill. Supplemental information filed included a draft floor plan prepared by Plan B Retail Design dated April 8, 2020. Additional information was submitted under cover letter from SKDC dated August 7, 2020. An updated landscape design plan showing trees along the frontage is dated August 11, 2020.

The Applicant requests approval for a high-impact / large-scale commercial development as per Sections 3.1.4 C(11), 7.9, and 7.12 of the Zoning Bylaw, as well as for work in the Water Quality Protection Overlay District (WQPOD) Zone II as per Section 9.2 of the Zoning Bylaw. The Applicant also seeks relief from the requirements of Sections 6.1.3 and 9.2.4, #5 regarding parking spaces between the street and the building front, and relief from the requirements of Section 6.2.7, regarding street trees along Route 7.

The proposal also requires Site Plan Approval from the Planning Board and Wetlands Protection Act permitting (a Notice of Intent) through the Conservation Commission.

**B. General Findings**

The site is in the B-2 zoning district and in a Zone II of the WQPOD. The existing 15,900 square foot retail store at 760 Main Street is proposed to be expanded on all four sides, for a total first floor area of approximately 33,325 square feet, and a total building size of approximately 34,825 square feet. As such the proposal is categorized under the Zoning Bylaw as a Large Scale Commercial Development and therefore also as a High Impact Commercial Use.

The existing building at 770 Main Street is approximately 4,200 square feet and will not be altered under this special permit. The property as a whole contains four contiguous parcels totaling 9.7 acres, identified on Assessors' Maps as Map 24, Lots 14, 15, 17 and 17D.

This is a commercial area that includes existing retail stores and offices to the north, south, and east, and is served by Main Street, US Route 7. A large portion of the southern property contains a solar array constructed in approximately 2017 to service the existing store.

A total of 128 parking spaces are proposed to be constructed. Approximately 77 spaces will be in front of the expanded store, 6 spaces on the adjacent property of 770 Main Street and accessed from 760 Main Street, and 45 spaces in the rear of the store. The spaces in the rear of the store will be for

employees only, in general. The store will be served by three loading docks at the rear of the store.

The existing driveways into and out of the site will remain in their current locations. The existing pedestrian path between this site and the Big Y plaza to the north will remain unchanged.

Municipal utilities including sewer, water, natural gas and electric currently serve the building. These utilities will be modified as necessary to accommodate the addition or relocated as necessary. Utility providers indicate they will be able to serve the expansion.

Landscaping will be added in the front buffer area closest to Main Street as well as in islands within the front parking area and as replacement for work proposed in the wetland buffer zones to the west (rear) of the site. This includes several proposed trees along the frontage as shown on the August 11 landscape plan.

Stormwater will be managed on-site through rain gardens, swales, and infiltration chambers and basins. This infrastructure is designed to meet the requirements of aquifer recharge in the WQPOD and the Stormwater Management Standards.

The Health Department reviewed the proposal and has determined it has no jurisdictional interest, but the Applicant will be required to submit to the Health Department plans detailing all construction and renovations of food storage, display, and preparation areas.

The Planning Board reviewed the special permit application and made a positive recommendation to the Selectboard, and, relative to the Applicant's two relief requests, found the requests for relief to be appropriate. Letters from the Board are attached to this decision. The Board will finalize its Site Plan decision after this Special Permit is decided and the Conservation Commission issues its Order of Conditions.

The Applicant has filed a Notice of Intent with the Conservation Commission, which will begin the public hearing on Wednesday, August 26.

### C. High Impact and Large-Scale Commercial Uses

Section 7.9 of the Zoning Bylaw requires certain submittals as well as certain design and performance standards for High Impact Commercial uses, which include Large Scale Commercial Uses.

The Applicant has submitted all information as required by Section 7.9.2. With regards to traffic, the Selectboard had the Applicant's study reviewed by an independent traffic engineer, Stantec, who found the Applicant's study to be complete, accurate, and in fact, conservative. The peer review report is attached to this decision.

The proposals meet the requirements of Section 7.9.3, Special Requirements for Location and Accessways, except for item #6. That item states access driveways shall not be more than 30 feet wide unless the [Selectboard] finds a greater width to be necessary. The Selectboard finds the proposed entry driveway meets the requirement, and that the proposed 35-foot wide exit driveway is desirable to facilitate safer maneuvers for cars and trucks exiting from the site.

The proposal meets the requirements of Section 7.9.4, Parking Areas, except for item #5, which requires that not more than 20% of the required parking be located between the street line and the front of the building. The applicant seeks permission to deviate from this requirement, noting the following:

The existing building is set back 220 feet from the front property line. The existing parking is situated so that a majority, 75%, of the parking is located between the street line and the front of the building. These are parking spaces for customers. The parking located in the rear of the building is for employees and deliveries.

The proposed site plan induces 83 parking spaces, or 66% of the parking, between the street line and the new building addition. This is a reduction from what exists. All main entrances to the building are located on the west face of the building. The rear of the building is for employees and deliveries and the rear of the store contains storage, freezers and work areas. This is not conducive of allowing customers to enter here. The parking layout mimics existing parking patterns which is favorable for the use. We respectfully request relief from this requirement.

The Planning Board reviewed this request and agrees that strict compliance with the requirement should not be required. The Selectboard agrees with the Applicant's reasoning and with the Planning Board. Since the building is existing and the site already substantially developed, strict compliance with this requirement is not feasible.

With relation to the landscaping requirements of Section 7.9.4 as well as the Route 7 tree requirements, Section 6.2.7, the Board finds the existing stone wall/fence and the proposed landscape design, dated August 11, 2020 to be adequate to minimize the potential adverse impacts of the proposed parking lot.

The proposal meets the requirements of Section 7.9.5, Lighting of Parking Areas, except item #8. That item requires the lights to be dimmed or shut off after the close of business. The Applicant must submit proposed lighting hours to the Selectboard.

The proposal meets the special permit requirement and Design Guidelines of Section 7.12.

#### D. Water Quality Protection District

Per Section 9.2.12 of the WQPOD, the proposal requires a special permit because it increases the impervious area of a lot by more than 15% or 2,500 square feet. The special permit requirements of the WQPOD ensure that a project provides a method(s) to capture, treat, and infiltrate stormwater into the underlying aquifer, so that the development of impervious surface does not degrade the quality or quantity of water entering into and recharging the groundwater aquifer.

A stormwater management report was prepared by the site engineer, SKDG. The report provides a description of proposed stormwater management measures, including detention basins and underground infiltration chambers, and describes how the measures comply with the Town's water quality and aquifer recharge requirements. As detailed in the proposed plans, these measures are designed and sized appropriately for the amount of new impervious surface, the underlying soil types, and unique characteristics of the site. The Engineer calculates that a total of 65%, or approximately 61,000 square feet, will be impervious surface. As such 3,050 cubic feet of recharge volume is required in order to balance out the proposed impervious surface. The Applicant proposes a recharge volume of over 21,000 cubic feet.

The proposal will capture and filter more runoff than happens now, increasing the quantity and quality of water that can infiltrate into the underlying aquifer zone. The report also includes an operations and maintenance plan to ensure the stormwater measures will operate as designed.

Section 9.2.13 item 3 states that the Selectboard may grant the special permit if it finds the standards of 9.2.8 (Prohibited Uses), 9.2.9 (Prohibited Uses, Inner Zone), and the following two standards, are met: (a.) [the project will] in no way, during construction or thereafter, adversely affect the existing or

potential quality or quantity of water that is available in the WQPOD; and (b.) [the project] be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

The Selectboard hereby finds:

1. The proposal complies with Sections 9.2.8 and 9.2.9.
2. More than the required amount of recharge volume is provided and the proposed stormwater management and groundwater infiltration measures comply with the standards of this section.
3. The project will not diminish the quantity or quality of water available in the WQPOD.
4. The project is designed to avoid substantial disturbance of the soils, topography, drainage, and other water-related natural characteristics of the site.

#### E. Special Permit Criteria and Findings

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

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

The Board’s considerations in relation to each of the six special permit criteria are set forth below.

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

The Board finds that the proposed expansion of the existing business will serve economic and community needs by providing additional retail grocery opportunities and additional employment opportunities.

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

Based on the Applicant’s proposed traffic study and on the independent review of the traffic study, the Board finds there are no traffic flow, safety, parking, or loading concerns.

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

The site is served by drinking water and sewer systems, which will be upgraded as needed to serve the development, as shown in the plans. The water and sewer departments find that there is adequate capacity to serve the proposal. There will be no discernable impact to public health, fire, or police services. The Board finds utilities and services are adequate.

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

The Board finds that the proposal will not be detrimental to the neighborhood character, which is a business commercial zone. The Board finds the new store façade, as well as the combination of

the existing stone wall / fence feature and the addition of 4 new trees, along the frontage as noted in the August 11, 2020 landscape plan, will enhance the appearance of the corridor. Since the viability of the frontage trees is important to ensuring this criterion is met, and the Selectboard will impose a condition requiring maintenance and/or replacement of the trees.

Criterion 5. *Impacts on the natural environment.*

The Board notes that a substantial increase in pavement and building area will in fact increase energy consumption and surface temperatures. But the Board finds the existing solar array offsets some of the energy demand, and the Board also finds that the proposal will increase the quantity and quality of aquifer recharge, and add appropriate trees and plants for pollinators. The Board finds the lighting proposal is adequate for safety but will impose a condition requiring an off-hours lighting plan to minimize light impacts on the night sky.

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

The Board finds that the proposal will have a substantial positive fiscal impact and employment impact. The new larger store will increase the tax base, will lead to additional hiring, and will likely increase local meals tax revenue.

Finding and Proposed Conditions:

In consideration of the above Findings, the Board finds that possible benefits of the proposal outweigh possible detrimental impacts of the proposal, and imposes the following conditions to ensure benefits will continue and potential negative impacts are mitigated:

1. As existing and proposed new trees age and/or decline, they shall be replaced as often and as soon as practicable in order to maintain the landscaping as per plans.
2. Prior to issuance of a final Certificate of Occupancy for the expanded store, Applicant shall submit a proposal indicating proposed lighting hours of the parking lots, such that exterior building and parking lot lights are turned off or substantially dimmed when the store is not in operation.

**SP # 911-20**

Special Permit application from Guido's Realty, Inc., for construction of a large scale commercial development and 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, 9.2, and 10.4 of the Zoning Bylaw.

**DRAFT MOTIONS**

1. VOTE ON FINDINGS

*(If the Board has amended the Findings based on the Public Hearing and its discussion, be sure to specify those changes and approve the findings "as amended.")*

Move to approve the Findings of Fact for Special Permit #911-20, [as written, or, as amended] and referenced as Exhibit A.

**Second:** \_\_\_\_\_

**Roll call vote:** Davis \_\_\_\_\_ Burke \_\_\_\_\_ Cooke \_\_\_\_\_  
Abrahams \_\_\_\_\_ Bannon \_\_\_\_\_

2. VOTE ON SPECIAL PERMIT

Move, in view of the approved Findings of Fact, to approve Special Permit #911-20 with the conditions as noted in the approved findings.

**Second:** \_\_\_\_\_

**Roll call vote:** Davis \_\_\_\_\_ Burke \_\_\_\_\_ Cooke \_\_\_\_\_  
Abrahams \_\_\_\_\_ Bannon \_\_\_\_\_

## 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](http://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>

Airport new information submitted by Applicant since last meeting:

<https://www.dropbox.com/s/m1lk817u0ne1r79/airport%20supplement%20filed%20August%2018%202020.pdf?dl=0>

Airport letters in support, since last meeting and up to 3:00 PM Thursday 8/20/20

<https://www.dropbox.com/s/kfxie3acu2kgvj3/airport%20new%20letters%20in%20support.pdf?dl=0>

Airport letters in opposition, since last meeting and up to 3:00 PM Thursday 8/20/20

<https://www.dropbox.com/s/5ol3cr9e70qggav/airport%20new%20letters%20opposed.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, 5<sup>th</sup> 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](mailto: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 you 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 areas 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 1Page**

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 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*  
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

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## 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

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## Helen Kuziemko

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**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](#)

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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".

Thaddeus Heuer

Page 2

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



**TOWN OF GREAT BARRINGTON**  
**Temporary Weekday Entertainment License Application**  
**\$25.00 per day**

The undersigned hereby applies for a license in accordance with the provisions of MA General Laws, Ch.140 Sec.183A amended, Ch.351, Sec.85 of Acts of 1981 and Ch.140 Sec.181.

Name: Richard Rothbard

Business/Organization: American Art Marketing

D/B/A (if applicable): Berkshires Arts Festivals

Address: 389 Stockbridge Rd Gret Barrington MA 01262

Mailing Address: PO Bx 480 Slate Hill, N.Y.10973

Phone Number: 845-661-1221 Call

Email: Richard@americanartmarketing.com

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

Live band with up to \_\_\_ pieces, including singers  Public Show

Other (please explain) Art Event w/ 10 x10 individual artist booths

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) \_\_\_\_\_

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): See Map

Date(s) of Entertainment\*: Sat & Sun Aug 29 & 30 Sept 5 & 6 Sept 19 & 20 Oct 10&11

**\*Does not include SUNDAY**

Start & End Times of Entertainment: 9am-7pm

**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.

Richard Rothbard Pres.

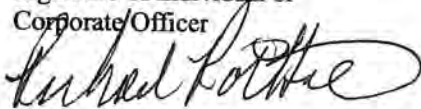
9/10/2020

096325654

Signature of Individual or  
Corporate Officer

Date

SS# or FID#



**TOWN USE ONLY:**

DRT Review with Conditions: See attached DRT notes (CR)

APPROVAL DATE: \_\_\_\_\_

LICENSE # \_\_\_\_\_

## Chris Rembold

---

**Subject:** Arts Market at White House Square

Staff reviewed the proposed events and has the following comments and recommended conditions:

The property owner's written permission will be required in advance of a license being issued.

The event will be subject to capacity limits as per the Health Department, which interprets current regulations to limit this proposed event to 50 people. That limit includes both vendors and customers (but not the other businesses on the site).

Sponsor is responsible for limiting / controlling the capacity.

All traffic for this event should exit the site via the traffic signal, not the other driveways.

Tents need to be 10 feet apart, or, they can be grouped in twos and threes, but these groups of need to be separated at least 10 feet from the next grouping. In any case, vendors and customers must be located so that 6-foot separations can be maintained.

Vendors should be kept away from the river bank edge. Consider a temporary barrier/fence to keep vendors and people away from riverbank edge. It is a steep drop off and an unstable edge.

All dogs must be leashed can cannot be left in hot cars.



**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.



*Place holder  
originals  
w/ Chris*

**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: Richard Rothbard

Business/Organization: AmericanArt Marketing

D/B/A (if applicable): Berkshires Art Festivals

Address: 389 Stockbridge Rd Great Barrington Ma 01230

Mailing Address: PO Box 480 Slate Hill, New York 10973

Phone Number: 845-661-1221

Email: Richard@americanartmarketing.com

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

Live band with up to \_\_\_ pieces, including singers  Public Show

**Artists 10x10 booths (45)**

Other (please explain) \_\_\_\_\_

**INCLUDES:**  Live music  Recorded music  Dancing by entertainers/ performers

Dancing by patrons  Amplification system  Theatrical exhibition

Floorshow  Play  Moving picture show  Light show  Jukebox

**Artists Exhibition & Sale**

Other (please explain) \_\_\_\_\_

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  
\_\_\_\_ NO



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

See Map

Exact Location of Entertainment (include sketch): \_\_\_\_\_

White House Sq 389 Stockbride Rd Gt Barrington, MA

Date(s) of Entertainment: Sunday, Aug 30, Sept 6, Sept 20, Sept 26, Oct 11

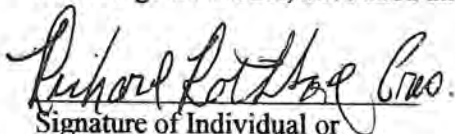
Start & End Times of Entertainment: 9 am- 7pm

**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

8/10/2020  
Date

096325654  
SS# or FID#

**TOWN USE ONLY:**

DRT Review with Conditions: See attached DRT notes (CR)

APPROVAL DATE: \_\_\_\_\_

LICENSE # \_\_\_\_\_

Town of Great Barrington

Form date: August 2015

Selectboard

Application for Access to a Public Way / Driveway Permit

Paid 8/6/20

Fee \$50.00

Number 276

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 8/4/2020
Name of Applicant / Property Owner Justin Thomson
Mailing address 63 East Center st Lee MA 01238
Phone number (413) 717-2523
Location of proposed driveway / highway entrance 64 Castle hill avenue
Contractor who will perform the work Berkshire Earthworks
Address & phone number of contractor 63 East Center st Lee MA (413)-717-2523
Proposed construction date 8/17/2020
Type of driveway (gravel, asphalt, etc.) Airport mix

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]

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:

Table with 3 columns: Received, Conditions Recommended, Other Permits Required. Rows: 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)

John Malumphy  
Highway-Facilities Superintendent

E-mail: [jmalumphy@townofgb.org](mailto:jmalumphy@townofgb.org)  
[www.townofgb.org](http://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: Justin Thompson (Berkshire Earthworks)  
Location: 64 Caste Hill  
From: John Malumphy Highway Superintendent/Sean VanDeusen, Public Works  
Director  
Date: August 20, 2020

- I. 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.

Please note that when the old driveway is abandoned that new curbing will need to be added along the road edge.



View to the south



View to the north

## Jackie Dawson

---

**From:** Charles Burger  
**Sent:** Friday, August 14, 2020 2:42 PM  
**To:** Jackie Dawson; Chris Rembold; John Malumphy; Great Barrington Conservation Commission  
**Subject:** RE: Driveway Permit for 64 Castle Hill Avenue

No issues for the FD.



**Charles Burger**

Fire Chief

413-528-0788 ex 101  
[cburger@townofgb.org](mailto: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.

**From:** Jackie Dawson <[jdawson@Townofgb.org](mailto:jdawson@Townofgb.org)>  
**Sent:** Friday, August 14, 2020 10:57 AM  
**To:** Chris Rembold <[crembold@Townofgb.org](mailto:crembold@Townofgb.org)>; John Malumphy <[JMalumphy@Townofgb.org](mailto:JMalumphy@Townofgb.org)>; Charles Burger <[cburger@Townofgb.org](mailto:cburger@Townofgb.org)>; Great Barrington Conservation Commission <[conservation@townofgb.org](mailto:conservation@townofgb.org)>  
**Subject:** Driveway Permit for 64 Castle Hill Avenue

See attached documents for driveway permit. Please comment by the end of day on Wednesday August 19, 2020.

Thank You!

Jackie



**Jackie Dawson**

Administrative Assistant

413-528-0867  
[jdawson@townofgb.org](mailto:jdawson@townofgb.org)

Town of Great Barrington  
334 Main Street  
Great Barrington MA 01230



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## Jackie Dawson

---

**From:** Chris Rembold  
**Sent:** Friday, August 14, 2020 11:14 AM  
**To:** Jackie Dawson; John Malumphy; Charles Burger; Great Barrington Conservation Commission  
**Subject:** RE: Driveway Permit for 64 Castle Hill Avenue

This is as per approved an site plan, so no issues from me. Just a comment that they might want a lip/berm on that apron to keep street runoff out of the driveway.

Chris



**Christopher Rembold, AICP**

Assistant Town Manager  
Director of Planning and  
Community Development  
413-528-1619 ext. 108  
[crembold@townofgb.org](mailto:crembold@townofgb.org)

Town of Great Barrington  
334 Main Street  
Great Barrington MA 01230



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**Subject:** Driveway Permit for 64 Castle Hill Avenue

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Thank You!

Jackie



**Jackie Dawson**

Administrative Assistant  
413-528-0867  
[jdawson@townofgb.org](mailto:jdawson@townofgb.org)

Town of Great Barrington  
334 Main Street  
Great Barrington MA 01230





## Jackie Dawson

---

**From:** Great Barrington Conservation Commission  
**Sent:** Friday, August 14, 2020 11:55 AM  
**To:** Jackie Dawson  
**Subject:** RE: Driveway Permit for 64 Castle Hill Avenue

Good morning, Jackie:

There are no wetland or scenic mountain issues at this property. The project is therefore non-jurisdictional for the Conservation Commission, and the Commission has no other comment.

-Shep



**Shepley W. Evans**

Conservation Agent  
Animal Control Officer  
Animal Inspector  
413-528-1619 ex 122  
conservation@townofgb.org

Town of Great Barrington  
334 Main Street  
Great Barrington MA 01230



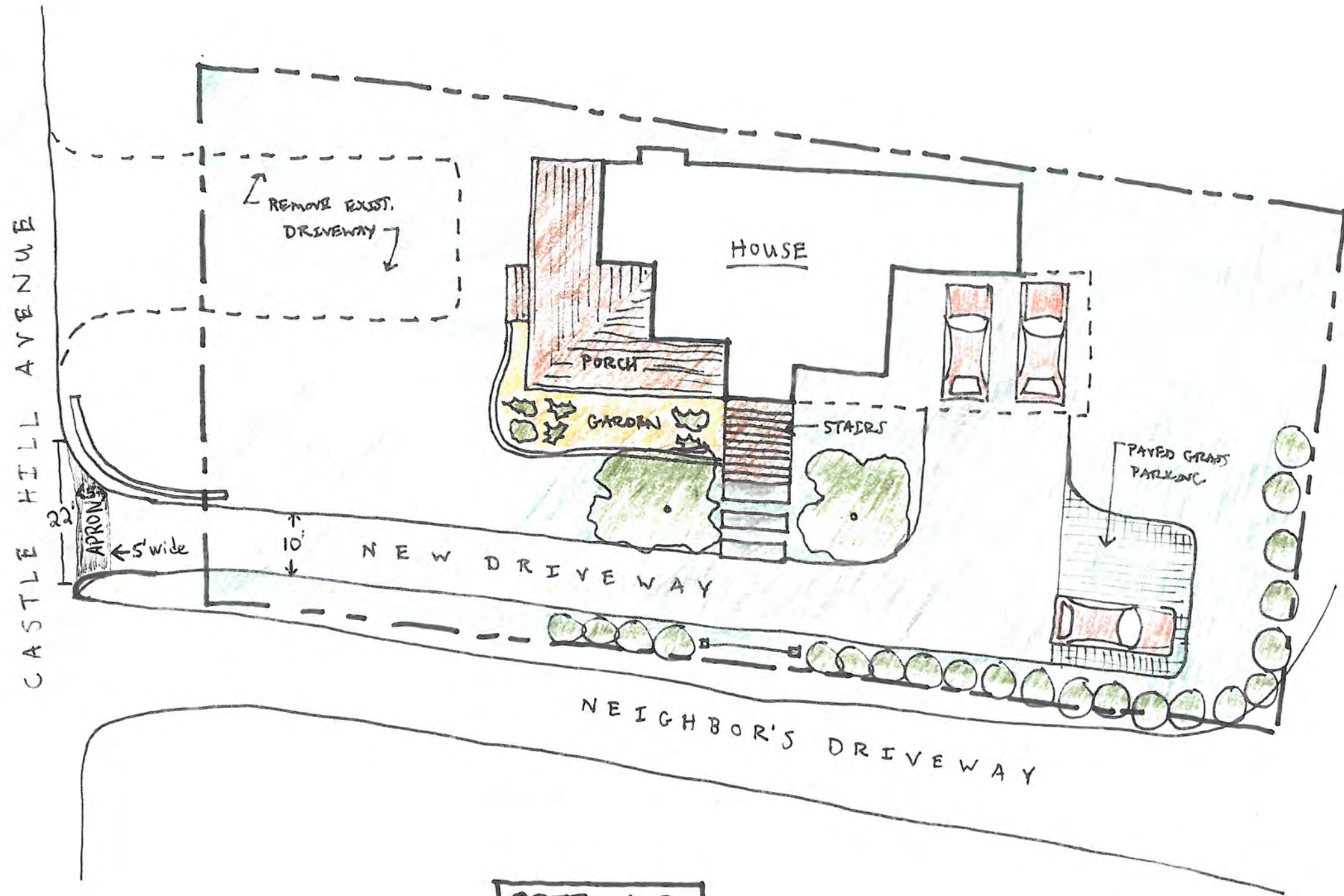
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**Sent:** Friday, August 14, 2020 10:57 AM  
**To:** Chris Rembold <crembold@Townofgb.org>; John Malumphy <JMalumphy@Townofgb.org>; Charles Burger <cburger@Townofgb.org>; Great Barrington Conservation Commission <conservation@townofgb.org>  
**Subject:** Driveway Permit for 64 Castle Hill Avenue

See attached documents for driveway permit. Please comment by the end of day on Wednesday August 19, 2020.

Thank You!

Jackie



**OPTION 5**

$\frac{1}{16}'' = 1'-0''$  05.31.20

**NOTICE**

**TOWN OF GREAT BARRINGTON**

**CONSERVATION COMMISSION VACANCY**

The Great Barrington Selectboard is accepting applications from residents to serve on the Conservation Commission. Prospective applicants are encouraged to contact the Conservation Commission Agent, Shep Evans at 528-1619 x122 to find out more specific information about the vacancy. All letters of interest must be submitted by July 31, 2020 to Mark Pruhenski, Town Manager, 334 Main Street, Great Barrington, MA 01230 or email [hkuziemko@townofgb.org](mailto:hkuziemko@townofgb.org)

Mark Pruhenski  
Town Manager



Great Barrington

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# Conservation Commission Vacancy

The Great Barrington Selectboard is accepting applications from residents to serve on the Conservation Commission. Prospective applicants are encouraged to contact the Conservation Commission Agent, Shep Evans at 528-1619 x122 to find out more specific information about the vacancy. All letters of interest must be submitted by July 31, 2020 to Mark Pruhenski, Town Manager, 334 Main Street, Great Barrington, MA 01230 or email [hkuziemko@townofgb.org](mailto:hkuziemko@townofgb.org)

## Contact Info

**Phone:**

(413) 528-1619 ext 122

**Fax:**

## Helen Kuziemko

---

**From:** Michael Lanoue <lanoue33@gmail.com>  
**Sent:** Monday, August 3, 2020 1:04 PM  
**To:** Helen Kuziemko  
**Subject:** Conservation Commission

Hi Helen,

As directed:

Dear members of the Great Barrington Select board

I am interested in being considered for the open spot on the Conservation Commission. I have always been interested in the work that is done to manage and protect our native habitats as well as the thought that goes into governing how we live and interact with the ecosystems we are part of. As one who has spent many long hours in a vegetable garden I am greatly aware of how even the smallest actions, both good and bad, can have a long lasting effect on the environment. Also, a member of the Board of Health we had a discussion over this past winter on the use of glyphosate in Great Barrington. As a result of that discussion I became more interested in the work of the Conservation Commission and its mission. I believe my record as a BoH member attests to my commitment as a public servant and I would like the opportunity to serve the people of Great Barrington in this additional capacity.

Thank you for you time and consideration.

Sincerely,

Michael Lanoue

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## EXECUTIVE SUMMARY

**TITLE:** Water Bottle Ban- Single Use Plastic Bottles

**BACKGROUND:** At the Annual Town Meeting of May 7, 2018, voters approved a bylaw prohibiting the retail sale of single use plastic water bottles of 1-liter or less. That bylaw went into full effect in the summer of 2019.


On March 23, 2020, the Selectboard declared a local State of Emergency in response to COVID-19, and shortly after that declaration, enforcement of the bottle ban was suspended. Since that time, two extensions have been granted with the most recent extension allowing for the sale of water bottles to continue through August 31, 2020.

**FISCAL IMPACT:** None.

**RECOMMENDATION:** Staff recommends another extension, suspending enforcement of the water bottle ban through November 30, 2020 with a commitment to notify residents and retailers within 30-days of active enforcement. Staff further recommends that the Selectboard re-visit this decision at the October 26, 2020 meeting.

**PREPARED AND APPROVED BY:**

**DATE:**



---

Mark Pruhenski/Town Manager

08/20/2020

## Helen Kuziemko

---

**To:** Department Heads; Shep Evans  
**Cc:** Mark Pruhenski; Chris Rembold  
**Subject:** RE: Advertising Fee Increases!

Hello Everyone,

Since the Berkshire Record Closed and we are now advertising All our legals In the Berkshire Eagle. The cost of advertising has increased tremendously. If you are one of the departments that uses the newspaper to advertise, please review your fee schedule and let us know as soon as possible if you have the need for increase. The SB will address this item on its August 24<sup>th</sup> agenda.

Helen V. Kuziemko  
Administrative Assistant  
Selectboard/Town Manager  
Town of Great Barrington  
334 Main Street  
Great Barrington, MA 01230  
413-528-1619 x2  
413-528-2290 Fax

**Town of Great Barrington  
2020 Special Town Meeting**

**WARRANT**

with Recommendations  
by the Finance Committee  
and the Selectboard

Tuesday, September 15, 2020, 6:00 pm



**SELECTBOARD**

Stephen C. Bannon, Chair  
Edward D. Abrahams  
William F. Cooke  
Kate F. Burke  
Leigh S. Davis

**FINANCE COMMITTEE**

Anne O'Dwyer, Chair  
Eugene W. Curletti  
Thomas A. Blauvelt  
Michelle M. Loubert  
Meredith O'Connor

[www.townofgb.org](http://www.townofgb.org)



TOWN OF GREAT BARRINGTON  
2020 SPECIAL TOWN MEETING, SEPTEMBER 15, 2020

INDEX OF WARRANT ARTICLES  
2020 SPECIAL TOWN MEETING

1. Authorization to sell/transfer 40 Grove Street
2. To Modify Town Code Chapter 48, Alarm System
3. To Modify Town Code Chapter 41, sec. 41-7 Addressing of Town Meetings Restricted
4. To Accept Mass General Law Chapter 59, sec. 57C Establishing Quarterly Tax Payment System
5. To Appropriate from the Receipts of the Wastewater Treatment Plant \$50,000 for the operation of the Sewer Division
6. Authorization to pay prior fiscal year invoices
7. Tax Financing Agreement, 430 Park Street
8. Sewer Easement, 79 Bridge Street
9. Sidewalk Easements, Housatonic Main Street
10. Taking or Eminent Domain of "Owner Unknown" Parcels on Tom Ball Ridge
11. Zoning: Editorial Amendments to the Zoning Bylaw
12. Zoning: Amend Section 3.1.4, permitted uses in the Downtown B District
13. Zoning: Amend Section 3.2, Accessory Uses
14. Zoning: Amend Section 3.1.4, Accessory Uses
15. Zoning: Amend Section 8.2, Accessory Dwelling Units
16. Zoning: Definitions of Accessory Dwelling Units and Moveable Tiny Houses
17. Zoning: Amend Section 4.1.2, Maximum Lot Coverage
18. Zoning: Amend the Design Advisory Committee and Design Review regulations
19. Zoning: Amend Section 8.5, Planned Unit Residential Development
20. Zoning: Amend Section 3.1.4, Swimming Pool regulations
21. Zoning: Amend Section 3.1.4, Residential Use permissions and Special Permit Granting Authority
22. Zoning: Amend Section 9.2, Water Quality Protection Overlay District
23. Zoning: Amend Section 8.4, Mixed Use regulations
24. Zoning: Add new section for conversion of nursing homes to multifamily use
25. Zoning: Amend Section 7.18, Marijuana Establishments, to establish a maximum number of retail establishments
26. Zoning, by citizen petition: Amend Section 9.11, Mixed Use Transitional Zone (MXD) and the Zoning Map
27. Zoning, by citizen petition: Amend Section 3.1.4, to Allow Marijuana Establishment by Special Permit in the I-2 Districts
28. Zoning, by citizen petition: Amend Section 7.18, Marijuana Establishment regulations
29. Modify Town Code Chapter 241-1, Citizen speaking time (by citizen petition)
30. Modify Town Code Chapter 189-1, Selectmen's Policies and Procedures (by citizen petition)
31. To prohibit hazardous and toxic waste storage, disposal, and dumping in Great Barrington (by citizen petition)
32. To close down and outlaw privately owned prisons for profit in Massachusetts (by citizen petition)

**TOWN OF GREAT BARRINGTON**

**WARRANT**

**SPECIAL TOWN MEETING 2020**

**COMMONWEALTH OF MASSACHUSETTS**

**BERKSHIRE, SS**

To William Walsh, Chief of Police of the Town of Great Barrington, in said Berkshire County,

**GREETINGS:**

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the Inhabitants of said town, qualified to vote in town affairs, to meet at the Monument Mountain Regional High School in Great Barrington on Tuesday, September 15<sup>th</sup>, 2020 at 6:00 P.M., then and there to act on the following:

**ARTICLE 1:**

To see if the Town will vote to authorize the Selectboard to transfer the care, custody, control, and management of a parcel of real property located at 40 Grove Street, containing approximately 12,632 square feet, and shown on the Town's Assessors' records as Parcel: 00020-00000-00100, which was acquired by the Town of Great Barrington through the issuance of a foreclosure judgment by the Massachusetts Land Court on July 3, 2018 for unpaid real estate taxes, from the Selectboard for the purpose for which said property is currently held, to the Selectboard to be held for the purpose of disposal pursuant to Massachusetts General Laws, Chapter 30B, Section 16, and to authorize the Selectboard to transfer said real property to the Great Barrington Affordable Housing Trust on such terms and conditions as the Selectboard determine to be in the best interest of the Town; or take any other action relative thereto.

**ARTICLE 2:**

To see if the Town will vote to amend the Town Code Chapter 48, Article 1, "ALARM SYSTEMS", as shown in the text below, or take any other action relative thereto:

Proposed additions are underlined.

Proposed deletions are ~~struckthrough~~.

§48-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

~~ALARM SYSTEMS — Any alarm device which automatically dials the emergency telephone number of the Police, Fire Department or other emergency service to alert that an emergency exists or that the services of that Department are needed or which transmits an alarm to the Town's alarm monitoring system. "Alarm system" shall also mean any alarm device which automatically emits an audible, visual or other response upon the occurrence of the hazard or emergency and is intended to alert persons outside the building and/or any person who in turn notifies the Police and/ or Fire Department to the existence of said hazard or emergency. Any device which when activated transmits a signal to the Police, Fire Department, or their dispatch center or transmits a signal to a person or company, who relays information, to the Police, Fire Department, or dispatch center, or produces an audible or visible signal to which the Police and/or Fire Department is expected to respond.~~

~~DIAL ALARM or DIALING DEVICE — Any fire, police or emergency alarm device which is a telephone device or telephone attachment which automatically or electronically selects a telephone line connected to the Police, Fire Department, or dispatch center and reproduces a prerecorded message to report a criminal act or other emergency requiring police, fire or emergency service response.~~

~~EMERGENCY NUMBERS — Any telephone number designated by the Police or, Fire Chief or Emergency Communication Commission as a telephone number through which members of the public may report an emergency or request public assistance.~~

~~FALSE EMERGENCY ALARM — Any signal actuated transmitted by an emergency alarm system to which the Police or Fire Department, Fire Chief or emergency service responds which is not the result of an emergency.~~

~~§ 48-2. Dialing devices restricted. Alarm System Monitoring~~

~~All dialing devices operated by automatic means shall transmit messages only to such numbers as may be designated for that purpose by the Police, Fire Department or Emergency Communication Commission of the Town. After 90 days following the effective date of this article, no person shall use, operate or install any device which will, upon activation by automatic means, initiate dialing, calling or other connection with the Police, Fire Department or emergency service of the Town, either at its regularly constituted telephone number or any other which may be designated by said Police, Fire Department or Emergency Communication Commission emergency number, without permit issued by the Board of Selectmen or Emergency Communication Commission. Alarm systems shall be connected to a central station or similar monitoring system which shall then notify Great Barrington Dispatch by a dedicated telephone number or other approved method. No alarm shall be automatically transmitted to the Police, Fire Department, or Dispatch Center without written consent from the affected department.~~

~~§ 48-3. Compliance of dialing devices required.~~

~~No person shall use, operate or install any dialing device that will, upon activation, automatically dial, call or connect with the telephone number designated by the Chief of Police, Fire Chief or Emergency Communication Commission, for the purpose of receiving such alarm messages, more than twice for any one incident. Any system installed on or after the effective date of this article must comply with this article. Preexisting installations must comply within 90 days of the effective date of this article.~~

~~§ 48-4. Mandatory alarm delay.~~

~~Upon the activation of a burglar (break-in) alarm, there shall be a mandatory delay of at least 15 seconds before the transmission of a signal to the Police Department to enable the user to abort the signal in the event that it was triggered inadvertently. This delay shall not be applicable to a robber (holdup), fire or medical emergency alarm. Any system installed on or after the effective date of this article must comply within 90 days of the effective date of this article.~~

§ 48-5. Timing devices.

The user of every alarm system emitting an audible, visual or other response shall, at the time such system is installed or within 90 days of the effective date of this article in the case of existing systems, install or cause to be installed an automatic timing device which shall deactivate such alarm so that it will be activated for no more than 15 minutes.

~~§ 48-6. Information to be filed.~~

~~The user of every alarm system maintained in the Town, except those installed in motor vehicles, shall, within 10 days of the installation thereof or within 60 days of enactment of this article, file the following information with the Police Department of the Town:~~

~~(1) The type of alarm system.~~

~~(2) The street address and the nearest cross street of the building which houses the alarm.~~

~~(3) In the case of commercial premises, the name, address and telephone number of an authorized representative and/or an alternative who will be able to respond when called by the Police to deactivate the alarm system, if necessary.~~

~~(4) In the case of a private residence, the name, address, and telephone number of a person who is not a resident of the private residence in question and who will be able to deactivate the alarm system; an external shutoff to the alarm system shall be available to the Emergency Department to deactivate the alarm.~~

~~Such filing requirements are applicable to all alarm systems whether the same are or are not directly connected to the Police, Fire Department and dispatch center or are merely audible alarms. Such filing must be made within the time period specified above even though there shall have been previous notification of the existence of such alarm systems to the Police/Fire Department of the Town.~~

~~§ 48-7. Permit; fee; revocation.~~

~~A. The Board of Selectmen or the Emergency Communication Commission are hereby authorized to grant a revocable permit to any owner, lessee or occupant of property located in the Town to operate, maintain, install or modify a police, fire or emergency alarm device, and no such device shall be operated unless such permit shall have first been issued.~~

~~B. The Board of Selectmen shall annually set and charge a fee for the issuance of such permit, to be renewed annually. Permits will expire on June 30 of each year.~~

~~C. The Board of Selectmen shall set and charge a fee for connection to the Town's alarm monitoring system. The Board of Selectmen shall also set and annually charge a monitoring fee for alarm systems which are transmitted to Town telephone, Town alarm monitoring systems or the dispatch center.~~

~~D. A permit issued pursuant to this article may be revoked at any time or from time to time by the Board of Selectmen or Emergency Communication Commission upon the giving of 10 days' notice, in writing, by registered mail, to the permittee, sent to the address shown on the permit. The violation of this article shall constitute grounds for the revocation of the permit.~~

§ 48-8. False alarms fees. [Amended 5-6-1996 ATM, Art. 19; 5-3-1999 ATM, Art. 27]

A fee may be charged for each False Alarm in accordance with a policy set by the Selectboard. A fee for a false alarm may not exceed \$250. A fee will be charge as listed below for each response by the Fire and/or Police Department to any building/residence in which an alarm malfunction or alarm activation is caused by the occupant or persons having control of the building/residence. The Police/Fire Chief or senior officer making an alarm response shall determine whether the alarm was a malfunction by the alarm system or accidental activation. After a third response in a twelvemonth period, the permit shall be revoked by the Board of Selectmen until the alarm system has been recertified by a reputable installer of alarms.

~~A. First offense: \$0.~~

~~B. B. Second offense and subsequent offenses: \$60.~~

§ 48-9. Disconnection.

In the event that an alarm system emitting an audible, visual or other similar response shall fail to be deactivated within the time limitation specified in § 48-5 above, the Town shall have the right to take such action as may be necessary in order to disconnect any such alarm.

~~§ 48-10. Violations and penalties.~~

~~Any person operating an alarm system without a permit from the Board of Selectmen or Emergency Communication Commission violates the provisions of this article and shall be subject to a fine of \$100 for each offense.~~

~~§ 48-11. Fees established.~~

~~Communication Committee fees shall be as follows:~~

- ~~A. Annual fee for each and every alarm: \$10.~~
- ~~B. A one time hook up charge to the alarm panel: \$275.~~
- ~~C. Monitoring fee, annually: \$125.~~

**ARTICLE 3:**

To see if the Town will vote to amend section 41-7 of Chapter 41 of the Town Code, Addressing of Town Meetings Restricted, by deleting paragraph B, which reads as follows:

B. The motion of “calling for the questions,” “calling the question,” “close debate,” “calling for a vote,” “vote now,” or other similar forms shall not be permitted until every registered voter of the Town in attendance has had an opportunity to speak on the issue at hand, OR to take any other action relative thereto.

**ARTICLE 4:**

To see if the Town will vote to accept the provisions of MA General Law Chapter 59, Section 57C for the purpose of establishing a quarterly tax payment system to be effective beginning on July 1, 2021 (Fiscal Year 2022), or take any other action relative thereto.

**Recommended by the Selectboard and Finance Committee**

**ARTICLE 5:**

To see if the Town will vote to appropriate from the receipts of the Wastewater Treatment Plant \$50,000 for the operation of the Sewer Division, or to take any other action relative thereto.

**Recommended by the Selectboard and Finance Committee**

**ARTICLE 6:**

To see if the Town will vote to authorize the payment of prior fiscal year invoices from the FY21 operating budgets of the Selectboard/Town Manager and Insurance; or take any other action relative thereto.

**Recommended by the Selectboard**

**ARTICLE 7:**

To see if the Town will vote to authorize the Selectboard to enter into a Tax Increment Financing Agreement and Tax Increment Financing Plan with Studio for Integrated Craft, LLC, or its Nominee, pursuant to the provisions of MGL Chapter 40, Section 59, in connection with the redevelopment of the property at 430 Park Street, Housatonic, or to take any other action relative thereto.

**ARTICLE 8:**

To see if the Town will vote to authorize the Selectboard to accept a permanent sanitary sewer easement in, on and under a portion of the property known as 79 Bridge Street, Great Barrington, Massachusetts, which easement is shown as “Proposed 30’ Sewer Easement” on a plan of land entitled “Plans to Accompany Permit Application Modifications Prepared For 79 Bridge Street Realty, LLC,” prepared by SK Design Group, Inc. and dated July 31, 2019, and which is on file with the Town Clerk, or to take any other action relative thereto.

**ARTICLE 9:**

To see if the Town will vote to authorize the Selectboard to acquire certain permanent easements and temporary easements on and/or along Main Street in the Village of Housatonic, through all legal means including donation, purchase, or eminent domain, said easement areas being shown on a plan entitled “Sidewalk Extension & Related Work Plan” prepared by Foresight Land Services, Pittsfield, MA, and dated 1-31-20, and which is on file with the Town Clerk, or to take any other action relative thereto.

**ARTICLE 10:**

To see if the Town will vote to acquire, by donation, purchase, eminent domain, or otherwise, for conservation and/or preservation purposes, land located off Long Pond Road on the southern ridge of Tom Ball Mountain comprising approximately 48.5 acres and shown on Assessors’ Map 34 as Parcels 14, 15, 16, and 17; to authorize the Selectboard and the Conservation Commission to take all action and execute all documents necessary in connection therewith; and to appropriate a sum of money for such acquisition, or to take any other action relative thereto

**ARTICLE 11:**

To see if the Town will vote to amend the Zoning Bylaw as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* This amendment will make small edits to the Bylaw to references to the Special Permit Granting Authority (or “SPGA”) are accurate, and to change “Board of Selectmen” to Selectboard to be consistent with the Charter.

*Amend the Bylaw as follows:*

Anywhere “Board of Selectmen” appears in the Bylaw, change to “Selectboard.” (This occurs in approximately 43 instances.)

Where individual Boards, acting as Special Permit Granting Authority as established by the Table of Uses, are named in the body of the text, change the Board name to SPGA for consistency and to facilitate any possible future zoning amendment.

### **Recommended by the Planning Board**

#### **ARTICLE 12:**

To see if the Town will vote to amend Section 3.1.4, Table of Use Regulations, specifically the column of the table for the B zone (Downtown Business), as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* This amendment will update the use table for the downtown business district to reflect the purpose of the district and to not allow uses incompatible with the district.

*Amend Section 3.1.4, Table of Use Regulations, as follows:*

- Change A(3) Dwelling, multifamily 3 to 8 units: change from SB to Y
- Change A(5) Live/work: change from N to Y
- Change A(7) Mixed-uses: change from SB to Y
- Change C(5) Garden centers: change from Y to SB
- Change C(6) General Service: change from SB to Y
- Change C(7) Greenhouses: change from Y to SB
- Change F(2) Gravel, loam, sand and stone removal: change from SB to N

### **Recommended by the Planning Board**

#### **ARTICLE 13:**

To see if the Town will vote to amend Section 3.2.2, items 3 and 4, regarding accessory uses, as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* This amendment will update the setback and height regulations for accessory dwelling units.

Proposed deletions of existing text are ~~struck through~~  
Proposed insertions are underlined

*Amend Section 3.2.2, items 3 and 4, as follows:*

3. An accessory building ~~not exceeding 15 feet in height may be located within the required rear or side yard of the principal building, but~~ shall not be located in the front yard or nearer to any street line than the minimum setback in the zoning district in which it is located. No accessory building shall be within 10 feet of any side or rear lot line. An accessory building exceeding 15 feet in height shall conform to all minimum setback requirements for the zoning district.

4. An accessory building in a Residence District shall not exceed 25 feet in height ~~above the ground level, and it shall not be located nearer than 10 feet to the principal building or occupy more than 10% of the total lot area. For definition of "height of a building," see Section 11.0.~~

**Recommended by the Planning Board**

**ARTICLE 14:**

To see if the Town will vote to amend Section 3.1.4, Table of Use Regulations, as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* This amendment clarifies that ADUs are permitted in all districts, as is already set forth in Section 8.2.

*Amend Section 3.1.4, Table of Use Regulations, by adding a new row G.(2), as follows, and renumbering subsequent rows:*

		[all zoning districts]	ADDITIONAL APPLICABLE REGULATIONS
<b>G.</b>	<b>Accessory uses</b>		
(2)	<u>Accessory Dwelling Unit</u>	<u>Y</u>	<u>See also 8.2.</u>

**Recommended by the Planning Board**

**ARTICLE 15:**

To see if the Town will vote to amend portions of Section 8.2.3, accessory dwelling units, as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* This amendment will update the regulations for ADUs, allowing ADUs to be slightly larger, removing duplicative or unnecessary design requirements, and allowing for the possibility of multiple ADUs for farmworker housing. All ADU's are by-right but subject to Planning Board site plan approval and Board of Health approval.

Proposed deletions of existing text are ~~struck through~~  
Proposed insertions are underlined

*Amend portions of Section 8.2.3, accessory dwelling units, as follows, and renumber subsections accordingly:*

1. Only one ADU may be established per lot.
2. ~~The ADU may not be in separate ownership from that of any other dwelling unit on the lot.~~
3. ~~The~~ An ADU may not in any case be larger than ~~650~~ 900 gross square feet. If a dwelling unit greater than ~~650~~ 900 gross square feet is created within a single-family home, the residence will be considered a two-family dwelling and will be subject to the requirements of Section 8.1 of this Bylaw.



4. The structure in which the ADU is to be located must meet the zoning requirements for residences, except when it is a legally pre-existing nonconforming structure and the Zoning Board of Appeals authorizes the use by special permit.
5. One parking space shall be provided in addition to that required by the present building. All required parking spaces, including the parking space for the ADU, must be provided no closer to the street than the building setback line, unless other specified provisions are made and agreed to by the permit granting authority. The Planning Board, or SPGA, in accord with a finding by the Planning Board, may, by special permit pursuant to Section 10.4, authorize a deviation from this requirement.
6. An ADU may be created within a new or a previously existing single-family or two-family residential structure.
7. A home occupation may be allowed within any dwelling unit and/or accessory structure. Any such home occupation shall meet the provisions of Section 3.3.
- ~~8. Where practicable, any new entrance necessitated by the ADU must be located on the rear or side of the building.~~
- ~~9. Fire escapes and outside stairways leading to a second or higher story shall be located on the rear or side of the building, and, where practicable, shall not be located on any building wall facing a street and shall comply with Section 4.2.3.~~
10. Farm Dwellings: More than one ADU shall be allowed on lands used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture, or viticulture as defined in MGL Ch. 128, Sec 1A, provided such ADUs are solely used for the farm's full time employees.

### **Recommended by the Planning Board**

#### **ARTICLE 16:**

To see if the Town will vote to amend Section 11, definitions, as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* This amendment will update the definitions of ADUs, clarifying that an ADU can be in a separate structure than the main dwelling, and that an ADU may be in a Moveable Tiny House. It will also add a new definition for Movable Tiny Houses (MTH). The provision for an MTH responds to the growing demand for these types of dwelling units. This proposed regulation includes provisions to ensure an MTH has a sense of permanence and adequate utilities.

Proposed deletions of existing text are ~~struck through~~  
Proposed insertions are underlined

*Amend Section 11, definitions, as follows:*

**ACCESSORY DWELLING UNIT:** a subordinate dwelling unit on the same lot as a primary single family or two-family residential use, whether in an accessory building or within the same building as the primary dwelling, with provisions for independent cooking, living, sanitation and

sleeping. A Movable Tiny House (MTH) connected to electricity, water, and sewer or septic that has its chassis, wheels and hitch concealed shall be considered an accessory dwelling unit.

**MOVABLE TINY HOUSE (MTH):** A structure intended for the separate, independent living quarters of one household for year-round residence that meets all of the following: (a) Is licensed and registered with the Massachusetts Registry of Motor Vehicles; (b) Meets the American National Standards Institute (ANSI) 119.5 requirements, and certified by a qualified third party inspector for ANSI compliance; (c) Cannot move under its own power; (d) Has not less than 150 and no more than 400 square feet of habitable living space, excluding lofts; (e) Is designed and built using conventional residential building materials for windows, roofing and exterior siding.

**Recommended by the Planning Board**

**ARTICLE 17:**

To see if the Town will vote to amend Section 4.1.2 of the Zoning Bylaw as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* In the R3, R1B, and R1A zoning districts, the existing maximum lot coverage regulation penalizes small but conforming lots by keeping building area artificially small. The Planning Board proposes this amendment as a way to increase the possibility of providing additional housing opportunities on small conforming lots in specific residential districts. These districts are served by utilities.

Proposed deletions of existing text are ~~struck through~~  
Proposed insertions are underlined

*Amend Section 4.1.2, Schedule of Dimensional Requirements, by adding new footnote 15 to the column "Maximum lot coverage by buildings," and adding new footnote 15 to Section 4.1.3 Notes to Schedule of Dimensional Requirements," as follows:*

Maximum lot  
coverage by  
buildings  
(percent) <sup>15</sup>

15. Maximum Lot Coverage shall not reduce the allowable footprint for buildings and structures to less than 2,000 square feet in the R3 District and 3,000 square feet in the R1A and R1B districts.

**Recommended by the Planning Board**

**ARTICLE 18:**

To see if the Town will vote to amend the Zoning Bylaw by deleting Sections 9.5.5 – 9.5.8 from the Downtown Business B District, adding new Section 7.19, Design Advisory Committee, and to amend other portions of the Zoning Bylaw as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* The existing Design Advisory Committee (DAC) was established as part of the downtown business district regulations (Section 9.5), but the DAC's jurisdiction applies to an area broader

than the downtown, and, the DAC has been consulted by other boards and commissions on a variety of other projects. Recognizing the importance of the DAC's review in ensuring development complements and enhances the Town's community character and distinctive architectural legacy, this article moves the DAC out of the specific downtown regulations, and creates a special section of the bylaw for the DAC. This article also clarifies the DAC's membership, authority and jurisdiction, and its review standards. Finally, this article includes in the Special Permit and Site Plan Review regulations specific reference to the DAC. The DAC and the Planning Board feel these amendments will make the design review process clearer for everyone, including applicants and the DAC itself.

Proposed deletions of existing text are ~~struck through~~  
Proposed insertions are underlined

*To see if the Town will vote to amend the Zoning Bylaw as follows:*

~~**9.5.5 Design Review.** The purpose of design review is to preserve, enhance and raise awareness of the town's cultural, economic and historical resources by providing for a review of all changes in the appearance of structure and sites which may affect these resources. The review procedures are intended to: enhance the social and economic viability of the town by preserving property values and promoting the attractiveness of the town as a place to live, visit and shop; encourage the conservation of buildings and groups of buildings that have aesthetic or historic significance; prevent alterations that are incompatible with the existing environment or that are of inferior quality or appearance; encourage flexibility and variety in future development. All new structures, alterations or additions to existing structures which affect the exterior architectural appearance of a building shall be subject to review by the Design Advisory Committee, provided that the action occurs on land which is located in the Downtown Business B District.~~

~~**9.5.6 Design Advisory Committee.** A Design Advisory Committee is hereby established to review applications for all actions that are subject to the provisions of this section and to work cooperatively with owners of land, buildings and businesses. The Design Advisory Committee shall make recommendations to the appropriate decision making body and/or the applicant concerning compliance of the proposed action to the design review standards in this section. The Design Advisory Committee shall consist of seven members, constituted as follows:~~

- ~~1. Building Inspector (ex officio, nonvoting member).~~
- ~~2. Planning Board member, selected by the Planning Board.~~
- ~~3. Historic District Commission member, selected by the Historic District Commission.~~
- ~~4. Architect, appointed by the Board of Selectmen.~~
- ~~5. Design Professional, appointed by the Board of Selectmen. [amended 5/6/2013 ATM]~~
- ~~6. Three members from the general public, appointed by the Board of Selectmen.~~

~~The terms of all appointed members shall be five years. The Historic District Commission member and the Planning Board member shall serve for one year terms.~~

~~The selecting or appointing boards or commissions may select or appoint an Alternate Member who may serve and act in the place of the Member selected or appointed by that board or commission in the event of the absence of that Member. In the event of an absence, the Chair may elevate an Alternate Member(s) in order to form a quorum and to vote on matters pending before the Committee, provided that the composition of the Committee is not altered.~~

~~**9.5.7 Design Advisory Committee; Procedures.**~~

1. Applications for all actions subject to review by the Design Advisory Committee shall be made by completing an application form and submitting it to the Building Inspector. Application forms are available from the Building Inspector's office. Further information about the application process is set forth in the Rules and Regulations of the Design Advisory Committee.

2. Submittal Requirements. Applicants to the Design Advisory Committee shall address all standards listed in 9.5.8 below. If the project involves a variance, special permit or building permit, any information required for it should be included. The Committee may request additional information if it deems to be relevant. Each application shall be accompanied by photographs of the existing buildings and/or site, showing the area to be modified. The following scaled drawings shall accompany the application, unless this requirement is waived by the Design Advisory Committee:

- a. Small scale (minimum 1/8 inch equals one foot zero inches) elevation showing the existing building with proposed changes and adjacent buildings.
- b. Large scale (minimum 1/2 inch equals one foot zero inches) elevation showing proposed changes.
- c. Section details (minimum 1/2 inch equals one foot zero inches).
- d. Building plans as submitted to the Building Inspector.

3. Process. The Building Inspector shall transmit copies of the application to the Design Advisory Committee. The Committee shall review the application, meet with the applicant and provide its recommendations, in writing, to the applicant and the Building Inspector within 30 days. If the application for design review is associated with an application for a variance or a special permit, the Building Inspector shall immediately transmit the Design Advisory Board's recommendation to the Planning Board or the Zoning Board of Appeals, whichever is relevant.

**9.5.8 Design Review Standards.** The standards which are described below are intended to provide a guide to the applicant and the Design Advisory Committee for the design review of proposed actions. These standards shall not be regarded as inflexible requirements, and they are not intended to discourage creativity, invention or innovation; rather, they are intended to focus attention on design principles which enhance the visual appearance of the community.

1. General principles:

- a. Every reasonable effort shall be made to preserve the distinguishing original qualities of a building, structure or site and its environment. The removal or alteration of any historic material or architectural features should be avoided whenever possible.
- b. Distinctive features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
- c. All new development shall be treated harmoniously to the use, scale and architecture of existing buildings in the vicinity that have a functional or visual relationship to the proposed building.
- d. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical

~~architectural or cultural material and when such design is compatible with the surrounding environment.~~

~~2. Design review standards. The Design Advisory Committee shall consider, at a minimum, the following standards in the course of a design review of a proposed action:~~

~~a. Height. The height of any proposed alteration should be compatible with the style and character of the surrounding buildings.~~

~~b. Proportions of windows and doors. The proportions and relationships between doors and windows should be compatible with the architectural style and character of the surrounding area.~~

~~c. Relationships of building masses and spaces. The relationship of a structure to the open space between it and adjoining structures should be compatible.~~

~~d. Roof. The design and shape of the roof should be compatible with the architectural style of the surrounding buildings.~~

~~e. Landscape. The landscape should be compatible with the character and appearance of the surrounding area. Native species for landscaping are encouraged. Invasive species are prohibited.~~

~~f. Scale. The scale of the structure should be compatible with its architectural style and the character of the surrounding buildings.~~

~~g. Architectural details. Architectural details, including signs, materials, colors and textures, shall be compatible with a building's original architectural style in a manner that preserves and enhances the character of the surrounding area.~~

*Add new Section 7.19:*

## **7.19 Design Review**

### **7.19.1 Design Advisory Committee.**

A Design Advisory Committee (DAC) is hereby established to work cooperatively with owners of land, buildings and business to review applications for all actions that are subject to design review as set forth in this Bylaw. The DAC shall consist of five members, constituted as follows:

One Planning Board member, appointed by the Planning Board.

One Historic District Commission member, appointed by the Historic District Commission.

One Architect or Design Professional appointed by the Selectboard.

Two citizens at large, who are residents of Great Barrington and who may or may not serve on other boards or commissions, appointed by the Selectboard.

The three members appointed by the Selectboard shall serve for three-year terms. The Historic District Commission member and the Planning Board member shall serve for one-year terms. The Planning Board and Historic District Commission may appoint one Alternate each, who may serve and act in the place of the Member in the event of the absence of that Member. In the event of an absence, the Chair may elevate

an Alternate in order to form a quorum and to vote on matters pending before the DAC, provided that the composition of the DAC is not altered.

The Great Barrington Building Inspector shall be the primary staff liaison to the DAC.

### **7.19.2 Purpose.**

The purpose of design review is to preserve, enhance and raise awareness of the town's cultural, economic and historical resources, as documented in the town's Design Guidelines, by providing for a review of changes in the appearance of structures and sites which may affect these resources. Design review is intended to:

1. enhance the social and economic viability of the town by preserving property values and promoting the attractiveness of the town as a place to live, visit and shop;
2. encourage the conservation of buildings and groups of buildings that have aesthetic or historic significance;
3. discourage structural alterations that are incompatible with the existing environment or that are of inferior quality or appearance; and,
4. encourage flexibility and variety in future development.

### **7.19.3 Authority.**

Within the Downtown Business District (B) and the Village Center Overlay District (VCOD), the construction of any new structures, replacement of existing structures, substantial structural changes, and alterations or additions to existing structures which affect a structures' exterior architectural appearance, shall be subject to review by the DAC.

For the purpose of this section, a substantial structural change is defined as one which involves: changing the height of a structure; increasing the size of the footprint of a structure by more than 25% or 1,000 square feet, whichever is smaller; or increasing the square footage of any above ground floor by more than 25% or 1,000 square feet, whichever is smaller.

The DAC shall make recommendations to the appropriate decision making body and/or the applicant concerning compliance of the proposed action to the design review standards in this section.

### **7.19.4 Design Review Procedures.**

1. Applications for all actions subject to review by the DAC shall be made by completing an application form and submitting it to the Building Inspector. Application forms are available from the Building Inspector's office. Further information about the application process is set forth in the Rules and Regulations of the DAC.
2. Submittal Requirements. Applicants to the DAC shall address all standards listed in 7.19.4 below. If the project involves a variance, special permit or building permit, any information required for it should be included. The DAC may request additional information if it deems to be relevant. Each application shall be accompanied by photographs of the existing buildings and/or site, showing the area to be modified. The following scaled drawings shall accompany the application, unless this requirement is waived by the DAC:
  - a. Small scale (minimum 1/8 inch equals one foot zero inches) elevation showing the existing building with proposed changes and adjacent buildings.

- b. Large scale (minimum 1/2 inch equals one foot zero inches) elevation showing proposed changes.
  - c. Section details (minimum 1/2 inch equals one foot zero inches).
  - d. Building plans as submitted to the Building Inspector.
3. Process. The Building Inspector shall transmit copies of the application to the DAC. The DAC shall review the application, meet with the applicant and provide its recommendations, in writing, to the applicant and the Building Inspector within 30 days. If the application for design review is associated with an application for a variance or a special permit, the Building Inspector shall immediately transmit the DAC's recommendation to the Zoning Board of Appeals or Special Permit Granting Authority, whichever is relevant. If the DAC does not issue written recommendations within 30 days from the date the application was submitted, the Building Inspector shall assume approval of the application by the DAC.

### **7.19.5 Design Review Standards.**

The standards which are described below are intended to provide a guide to the applicant and the DAC for the design review of proposed actions. These standards shall not be regarded as inflexible requirements, and they are not intended to discourage creativity, invention or innovation; rather, they are intended to focus attention on design principles which enhance the visual appearance of the community. It is strongly encouraged for applicants to refer to the town's Design Guidelines.

1. General principles.
  - a. Every reasonable effort shall be made to preserve the distinguishing original qualities of a building, structure or site and its environment. The removal or alteration of any historic material or architectural features should be avoided whenever possible.
  - b. Distinctive features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
  - c. All new development shall be treated harmoniously to the use, scale and architecture of existing buildings in the vicinity that have a functional or visual relationship to the proposed building.
  - d. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical architectural or cultural material and when such design is compatible with the surrounding environment.

2. Design review standards. The DAC shall consider, at a minimum, the following standards in the course of a design review of a proposed action:

- a. Height. The height of any proposed alteration should be compatible with the style and character of the surrounding buildings.
- b. Proportions of windows and doors. The proportions and relationships between doors and windows should be compatible with the architectural style and character of the surrounding area.
- c. Relationships of building masses and spaces. The relationship of a structure to the open space between it and adjoining structures should be compatible.

d. Roof. The design and shape of the roof should be compatible with the architectural style of the surrounding buildings.

e. Landscape. The landscape should be compatible with the character and appearance of the surrounding area. Native species for landscaping are encouraged. Invasive species are prohibited.

f. Scale. The scale of the structure should be compatible with its architectural style and the character of the surrounding buildings.

g. Architectural details. Architectural details, including signs, materials, colors and textures, shall be compatible with a building's original architectural style in a manner that preserves and enhances the character of the surrounding area.

*Amend Section 9.5, Downtown Business District, by inserting the following:*

### **9.5.5 Design Review Required**

Within the Downtown Business District (B), the construction of any new structures, replacement of existing structures, substantial structural changes, and alterations or additions to existing structures which affect a structures' exterior architectural appearance, shall be subject to review by the Design Advisory Committee in accordance with Section 7.19.

For the purpose of this section, a substantial structural change is defined as one which involves: changing the height of a structure; increasing the size of the footprint of a structure by more than 25% or 1,000 square feet, whichever is smaller; or increasing the square footage of any above ground floor by more than 25% or 1,000 square feet, whichever is smaller.

*Amend Section 10.4.3 (special permit procedures), by inserting the following:*

2. It is recommended that projects requiring a special permit appear before the Design Advisory Committee prior to meeting with the SPGA.

*Amend Section 10.5.1, (site plan review applicability) by inserting the following:*

3. It is recommended that projects requiring Planning Board site plan approval appear before the Design Advisory Committee prior to meeting with the Planning Board.

### **Recommended by the Planning Board**

### **ARTICLE 19:**

To see if the Town will vote to amend Section 8.5 of the Zoning Bylaw as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* The PURD bylaw is meant to encourage compact and efficient subdivision design. Unfortunately the existing density requirements of Section 8.5 are antithetical to this purpose because they allow less than half the number of units that the underlying zoning allows. In other words, under existing regulations, a developer could achieve more units in a conventional subdivision than in a PURD.



The Planning Board proposes these amendments in order to correct that issue and to further the Land Use goals of the Master Plan. If this amendment passes, the disincentives of a PURD will be corrected, and developers may choose a PURD-style development rather than a conventional sprawling subdivision.

Proposed deletions of existing text are ~~struck through~~  
Proposed insertions are underlined

*Amend Section 8.5 as follows:*

**8.5.1 Purpose.** The purpose of Planned Unit Residential Development is to:

1. Allow for greater variety, creativity and flexibility in development. Provide harmonious and diverse housing choices with varied setback lines, dwelling types, and “cluster” type site planning, with provisions to control maximum density.
2. Encourage more compact, economical and efficient development;
3. Facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
4. Promote the creation of usable and suitably located common open space that is permanently protected for a higher level of amenity.
5. Maintain and replicate the traditional New England rural character and land use pattern in which small villages are adjacent to common open space.

**8.5.12 Special Permit Required.** The ~~Board of Selectmen~~ Planning Board shall be the Special Permit Granting Authority (SPGA) for a PURD and may grant a special permit in accordance with the provisions of Section 10.4 for the construction and occupancy of a planned unit residential development (PURD) in any zoning district specified for such use in the Table of Use Regulations.

**8.5.23 Permitted Uses.** In a PURD, the following uses may be permitted. No structure designed or intended for business use, except the development office, shall be a part of any PURD.

1. Single family dwellings.
2. Two-family dwellings.
3. Multifamily dwellings.
4. Assisted living residence.
5. Any mixture of single family, two-family, multifamily dwellings, and/or assisted living residence.
6. Accessory uses as regulated in Section 3.0.

**8.5.34 Density.** The following requirements relating to the density of population and intensity of land use by a PURD shall be met.

1. Minimum number of dwelling units: 10.
2. Maximum number of dwelling units: 60.
3. Separation of PURDs: In R2 and R4 Zoning Districts, the boundary of one PURD shall be no closer than one mile to the nearest boundary of another PURD in an R2 or R4 District, measured in a straight line connecting the closest points of the respective boundaries, nor shall the boundary of

any PURD in an R2 or R4 District be contiguous to that of any PURD in any other zoning district. In R1A, R1B, R3, B and I Zoning Districts, the boundary of one PURD shall not be contiguous at any point to that of another PURD, regardless of district.

4. The minimum land area for a PURD shall be based on the following area requirements per dwelling unit:

DISTRICT	AREA (SQ. FT.)
R1A	<del>9,000</del> <u>3,300</u>
R1B	<del>7,500</del> <u>1,700</u>
R2	<del>20,000</del> <u>15,000*</u>
R3	<del>7,500</del> <u>1,700</u>
R4	<del>30,000</del> <u>29,000</u>
B2	<del>20,000</del> <u>2,000</u>
<u>B2X</u>	<u>2,000</u>
<u>B3</u>	<u>2,000</u>
<u>MXD</u>	<u>2,000</u>
I	<del>20,000</del> <u>2,000</u>
<u>I2</u>	<u>2,000</u>

\*7,500 SQ. FT. if served by both municipal water and sewer; 10,500 SQ. FT. if served by one utility but not the other.

5. Minimum usable open space or common land per dwelling unit: ~~5,000~~ 2,500 square feet. Such space shall not include wetlands, streams or any other area subject to protection under the Massachusetts Wetlands Protection Act, unless the SPGA determines that the access provided to these resources is a significant public benefit, nor shall it include roadways and private yards, nor driveways, walkways, and parking spaces that are common to less than four dwelling units. ~~parking space, roadways, walkways, laundry drying areas or yards required under this Bylaw.~~
6. The maximum lot coverage by buildings shall be regulated in accordance with ~~terms of percent by~~ the Schedule of Dimensional Requirements for the underlying zoning district.

**8.5.45 Requirements.** A PURD shall comply with all the following requirements and procedures, ~~which shall be made conditions of the special permit.~~

1. The minimum off-street parking requirement shall be ~~two~~ one parking space for each dwelling unit.
2. The maximum height of structures shall be as regulated in Section 4.0.
3. The maximum length of any exterior straight wall shall be 125 feet. There shall be an offset of at least ~~20~~ 10 feet between straight walls.

4. The minimum distance between any two principal buildings where one or both contain three (3) or more dwelling units shall be not less than ~~50~~ 20 feet. The minimum distance between any buildings that are one- or two-family dwellings shall be not less than ~~20~~ 10 feet.

5. No portion of any enclosed wall of any building or other permissible structure shall be nearer than 20 feet to any roadway within the development or 10 feet to any parking area and shall not be nearer than ~~400~~ 50 feet to any property line in R2 or R4, ~~B2 and I~~ Districts, nor nearer than ~~50~~ 30 feet to any property line in R1A, R1B and R3, B2, B2X, B3, MXD, I and I2 Districts.

6. A PURD having more than 40 dwelling units shall have a minimum of two access roadways to be separated by at least 100 feet. All roadways within the development shall conform in construction with the standards as set forth in the Planning Board's Subdivision Regulations, and all public utilities shall be installed in accordance with said subdivision regulations.

7. Parking and recreation areas shall be designed and located to be ~~safely and conveniently~~ accessible from the buildings they are intended to serve. No space shall be considered available for parking that reduces the effective width of a driveway providing access to more than one dwelling unit to less than ~~46~~ 12 feet.

8. The proposed development shall be located with relation to primary streets and uses outside the development in a manner that does not create traffic hazards or congestion. Before issuance of a special permit by the SPGA, the Chief of Police and the DPW or Highway Superintendent shall give their written approval of said location.

9. The proposed development shall be so located that essential community services, including water supply, sewage system, drainage system ~~if available~~ and police and fire protection, shall be ~~available and~~ adequate for the development, based on written reports and recommendations from appropriate town agencies. The SPGA shall, before granting a special permit, require written guarantees from the applicant, including such financial guarantees in the form of bank deposits, bonds or covenants as may be satisfactory to the SPGA and the Town Counsel, that suitable provision will be made assuring these services, if available.

**8.5.56 Timeshares.** The rental or sale of any unit within a PURD on a time-sharing basis for temporary occupancy is permitted only in the B2 (General Business) zoning district.

**8.5.67 Common Land.** Land preserved in accordance with this Section shall be either deeded to, and accepted by, the Town of Great Barrington for park or open space use, conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space or, in the case of dwelling units for sale, either as condominiums or under cooperative ownership, conveyed to a corporation or trust owned or to be owned by ~~the all property owners of dwelling units~~ within the PURD. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the ~~property dwelling units~~. In any case in which such land is not conveyed to the town, the applicant shall record in the Southern Berkshire Registry of Deeds a restriction acceptable to the SPGA and the Town Counsel and enforceable by the town providing that such land shall be kept in an open or natural state and not built upon for residential or other use nor developed for such accessory uses as parking and/or roadways. This restriction shall be provided before the special permit is granted and shall be recorded with the special permit.

**8.5.78 Procedures; Preliminary Land Development Plan.** Before applying for a special permit hereunder, the applicant shall file with the Planning Board a preliminary land development plan (PLDP) of the entire tract drawn to a scale adequate to represent all features of the property. Said PLDP shall show the following in sufficient detail to form a clear basis for discussion of the project and for preparation of

the definitive land development plan (DLDP). Six copies and one electronic copy of the PLDP shall be submitted by the applicant to the Planning Board, which shall set a date and time at which it will review the plan under its Subdivision Regulations. It shall, within five business days of receipt of the PLDP, notify the applicant, the SPGA Selectboard, the Conservation Commission, the Board of Health and other town departments as it deems appropriate of the date and time of such meeting, and it shall transmit copies of the plans to said boards and departments. The review session shall be held not later than business 35 days after receipt of the PLDP by the Planning Board. During the meeting, town boards and departments may suggest revisions and additions to be incorporated by the applicant in the definitive land development plan. The PLDP shall include, at a minimum:

1. Lot layout and dimensions.
2. Access road locations and widths.
3. Open space locations, and dimensions, and area calculations.
4. Location of major site features, such as existing stone walls, fences, large trees and rock outcroppings; all existing and proposed structures on the property; all existing and proposed driveways, walkways and parking areas; all bordering streets and/or highways; contours of elevation at intervals of no more than two feet; all existing and proposed wells and septic systems; drainage patterns; and other physical and topographical features of the property including but not limited to streams, ponds and wetlands.
5. An arrow indicating magnetic North.

**8.5.89 Procedures; Definitive Land Development Plan.** A special permit application shall be filed in accordance with the SPGA's regulations and shall be accompanied by the definitive land development plan (DLDP). ~~shall be filed with the Planning Board and the special permit application shall be filed with~~ The SPGA, which shall hold a public hearing in accordance with the provisions of Section 10.4. The Planning Board shall also hold a public hearing in accordance with its Subdivision Regulations to determine the appropriateness of any roadways in the PURD and any requested waivers from the Subdivision Regulations. ~~The hearings may be held simultaneously, if members of both boards so vote, though there shall be distinct findings and votes taken in accordance with the governing laws, rules, and/or regulations.~~ The Planning Board's endorsement of such roadway plan shall be in accordance with all provisions of its Subdivision Regulations.

The DLDP shall contain, at a minimum, the same information as the PLDP including any changes made thereto and any other information requested by the Planning Board. The special permit application shall:

1. Be accompanied by two locus maps showing the location of the property. One shall be an enlarged section of a United States Geological Survey Map, and the other shall be a copy of the current Great Barrington Zoning Map, each indicating the location of the property by arrow or other suitable mark.
2. Be signed by the owner or owners of the property in question or, if the applicant is other than the owner of the property, shall be signed by the applicant and shall be accompanied by a letter from the owner authorizing the applicant to apply for the special permit. Said application shall also be accompanied by all appropriate fees. For the purposes of this section, an "applicant" shall be defined as a person, corporation, partnership or other legal entity having a legal or equitable interest in the property.
3. Contain elevations and floor plans ~~views~~ of the proposed dwellings.

**8.5.910. Decision.** In addition to the criteria set forth in section 10.4, the SPGA shall consider the following:

1. The proposed development shall be in harmony with the Master Plan of the community, as adopted and amended by the Planning Board.
2. Usable open space or common land shall be assured and maintained in accordance with the procedures prescribed herein.
3. The development plan shall contain specific time periods within which development of each section of the PURD will be started. Failure to start construction within those periods may be cause for issuance of a stop-work order by the Inspector of Buildings.

**Recommended by the Planning Board**

**ARTICLE 20:**

To see if the Town will vote to amend Section 3.1.4, G.(12) of the Table of Use Regulations as set forth in this article, or to take any other action relative thereto.

*Purpose:* This amendment will change the strict requirements for swimming pools in the Table of Use Regulations so that the zoning bylaw does not conflict with or impose stricter standards than the Building Code.

Proposed deletions of existing text are ~~struck through~~  
Proposed insertions are underlined

*Amend G.(12) of the Table of Use Regulations as follows:*

(12) Swimming pools, inground or aboveground. Pool must be equipped with safety covers, alarms, fencing, or other means of protections as required by the Building Codes~~surrounded by a continuous fence having a minimum of 4 feet height and with a gate that can be locked;~~ so designed and built to restrain entry by unauthorized persons.

**Recommended by the Planning Board**

**ARTICLE 21:**

To see if the Town will vote to amend Section 3.1.4 of the Zoning Bylaw as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* This amendment will make changes to subsection A of the Table of Use Regulations in Section 3.1.4 of the Zoning Bylaw, designating the Planning Board (PB) as the Special Permit Granting Authority for most residential uses, move three family dwelling units up to row (2) thereby allowing three family in more districts by right, and changing the permissions of multifamily uses in some districts.

Proposed deletions of existing text are ~~struck through~~  
Proposed insertions are underlined

*Amend Section 3.1.4 of the Zoning Bylaw as follows:*

DRAFT

(Article 21 continued)

Table of Use Regulations

Permitted Use		ZONING DISTRICT <sup>1</sup>														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B2X	B3	MXD	I		I2
<b>A. Residential uses</b>																	
(1)	Dwelling, Single family	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	
(2)	Dwelling, Two-family	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	Y <sup>2</sup>	See also <a href="#">8.1</a>
(3)	Dwelling, multifamily 3 to 8 units	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	N	<del>SB</del> <u>Y</u>	<del>SB</del> <u>Y</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>Y</u>	<del>SB</del> <u>PB</u>	Y	Y	Y	<del>N</del> <u>PB</u>	<del>SB</del> <u>PB</u>	See also <a href="#">8.3</a>
	9 units or more	<del>N</del> <u>PB</u>	<del>N</del> <u>PB</u>	<del>N</del> <u>PB</u>	<del>SB</del> <u>PB</u>	N	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	N	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	Y	<del>SB</del> <u>PB</u>	N	<del>SB</del> <u>PB</u>	See also <a href="#">8.3</a>
(4)	Assisted living residence	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	See also <a href="#">8.8</a>
(5)	Live/work units	N	N	N	N	N	N	Y	N	N	N	Y	Y	Y	Y	Y	See also <a href="#">9.4, 9.6</a> .
(6)	Lodging house or tourist home for transient guests	SB	SB	SB	SB	SB	SB	SB	N	SB	SB	SB	SB	SB	SB	SB	See also <a href="#">7.16</a>
(7)	Mixed use	N	N	N	N	N	<del>SB</del> <u>Y</u>	Y	<del>SB</del> <u>PB</u>	<del>SB</del> <u>Y</u>	<del>SB</del> <u>PB</u>	Y	<del>SB</del> <u>PB</u>	Y	Y	Y	See also <a href="#">8.4, 9.6</a> .
(8)	Open Space Residential Development	N	N	PB	N	PB	N	N	N	N	N	N	N	N	N	N	See also <a href="#">8.7</a>
(9)	Planned unit residential development (PURD)	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	N	N	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	N	N	See also <a href="#">8.5</a>
(10)	Publicly Financed Nonprofit Age-Restricted Housing	N	N	N	<del>SB</del> <u>PB</u>	N	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	N	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	<del>SB</del> <u>PB</u>	N	N	See also <a href="#">8.9</a>
(11)	Trailer or mobile home	SB	SB	SB	SB	SB	SB	N	SB	SB	SB	SB	N	N	SB	SB	See also <a href="#">8.6</a>

Recommended by the Planning Board

**ARTICLE 22:**

To see if the Town will vote to amend Section 9.2 of the Zoning Bylaw as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* This amendment will clarify that portions of the WQPOD impose stricter standards than those that require special permits.

Proposed deletions of existing text are ~~struck through~~  
Proposed insertions are underlined

*Amend Section 9.2 as follows:*

**9.2.2 Overlay District.** The WQPOD is an overlay district superimposed on the other zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Uses in the underlying zoning districts that fall within the WQPOD must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the WQPOD. In the case of a conflict between two provisions of this section, the more restrictive shall apply, provided, however, Section 9.2.11 shall be considered more restrictive and imposing higher standards than Section 9.2.12.

**9.2.12 Uses and Activities Requiring a Special Permit.** The following uses and activities (except as specifically addressed in Section 9.2.11) are permitted only upon the issuance of a special permit by the Board of Selectmen (SPGA) under such conditions as it may require:

**Recommended by the Planning Board**

**ARTICLE 23:**

To see if the Town will vote to amend Section 8.4, Mixed Use Development, of the Zoning Bylaw as set forth in this article, or to take any other action relative thereto.

*Purpose of the Amendment:* The Planning Board proposes this amendment to clarify the amount of floor space required for nonresidential uses in order for a development to be considered “mixed-use.”

Proposed deletions of existing text are ~~struck through~~  
Proposed insertions are underlined

*Amend Section 8.4 as follows:*

**8.4.2 Requirements.**

2. ~~A portion of the street level floor space shall be reserved for nonresidential use. Inside the Village Center Overlay District, this portion shall be a minimum of 75%. Inside the Village Center Overlay District, at least 75% of street-level floor space shall be reserved for nonresidential use. Outside the Village Center Overlay District, at least 25% of street-level floor space shall be reserved for nonresidential use. The Planning Board, or the Special Permit Granting Authority (SPGA), if it is not the Planning Board, may, by special permit, reduce the nonresidential space requirement.~~

**Recommended by the Planning Board**



**ARTICLE 24:**

To see if the Town will vote to amend the Zoning Bylaw as set forth in this article, or to take any other action relative there.

*Purpose:* This amendment will provide a way for existing nursing homes to be converted to a more marketable use. In Great Barrington, all three of our existing nursing homes are in residential zones. These existing facilities are served by water and sewer utilities, have their own onsite parking, and their scale and neighborhood impacts are known. However, if they were to close, the buildings cannot be readily repurposed to another use because of the residential zoning restrictions; more than eight (8) residential units is not permitted in these zones. This amendment would provide a path for a possible conversion to a new use. A special permit would be required, so that the Town and the abutters could weigh new impacts, if any, and to allow for site or building changes, if any.

Proposed deletions of existing text are ~~struck through~~  
Proposed insertions are underlined

*Add new Section 8.10, as follows:*

**8.10 Conversion to Multifamily Use**

**8.10.1. Purpose:**

1. To provide for the conversion of existing legally permitted nursing homes in residential zones to a more marketable use;
2. To retain and enhance the existing property tax base; and,
3. To protect surrounding residential neighborhoods from undue impacts from the new use.

**8.10.2 Special Permit Required.** Nursing homes in Residential zoning districts that were existing as of January 1, 2020 may be converted to a multifamily development by Special Permit from the Planning Board only if the Planning Board, after a public hearing, finds the following conditions are met:

1. The scale of the proposal, whether in existing and/or in additions or new structures, is not more detrimental to the residential neighborhood than the existing or previous nursing home use.
2. Public or private roads and driveways which lead to the property are of adequate design, width, and condition to handle proposed traffic.
3. Proposed traffic will not severely change the residential character of the neighborhood.
4. The development is or shall be served by sidewalks, bike lanes, and/or transit to the extent practicable.
5. The Board of Health confirms that the new proposed use can be accommodated with respect to onsite water, onsite septic disposal and any other standards of the Board of Health. In the case of public water or public sewer, the water district or Town sewer department, respectively, must certify in writing that the new proposed use can be accommodated.

6. Parking areas are screened from adjacent streets and properties, and have additional landscaped areas within the parking area to reduce the impact of large paved areas.

**8.10.3 Signs.** Signs shall be limited to one identification sign no more than nine (9) square feet in area except for traffic/parking/pedestrian regulation signs as required by the Planning Board. A deviation from this requirement may be authorized during the Special Permit process if the SPGA determines additional signs are not detrimental to the neighborhood.

**8.10.4 Lighting.** All lighting units shall be located no higher than 14 feet, with lights shielded to direct light downward. Lighting shall not cause glare onto abutting properties.

**8.10.5 Density.** The maximum number of residential units allowed on a site shall be determined by the Planning Board based on such factors as but not limited to, impact on the neighborhood, provision for adequate onsite amenities such as open space, recreational facilities, parking, landscaping, and buffers to surrounding residential areas.

**8.10.6 Parking and Loading.** Parking spaces for such uses shall be provided at the rate of at least one space per dwelling unit. There shall be at least one loading space. Deviation from these requirements may be granted by the SPGA.

**8.10.7 Conditions.** The Planning Board may impose additional restrictions or conditions to maintain the residential character of the neighborhood.

**8.10.8 Site Plan Review.** Proposals shall also be subject to Planning Board Site Plan Review as set forth in Section 10.5.

*and amend Section 3.1.4, Table of Use Regulations, by adding a new note, "See also 8.10," to the Additional Applicable Regulations column for row B(10).*

### **Recommended by the Planning Board**

### **ARTICLE 25:**

**7.18.4 Locational Requirements.** Marijuana Establishments may be located in accordance with Section 3.1.4, Table of Use Regulations, except as follows:

1. No Marijuana Establishment or Medical Marijuana Treatment Center may be located closer than 200 feet from a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.
2. The distance in paragraph 1 is to be measured in a straight line from the nearest point of the property line of the proposed Marijuana Establishment or Medical Marijuana Treatment Center and the nearest point of the property line of the protected uses stated above in paragraph 1.
3. The Selectboard may, by special permit pursuant to Section 10.4, authorize a deviation from this distance requirement if it finds the Marijuana Establishment or Medical Marijuana Treatment Center will not be detrimental to a protected use.

4. Other types of marijuana establishments licensed by the Massachusetts Cannabis Control Commission may be permitted in accordance with the appropriate use category in the Table of Use Regulations.

5. Not more than seven (7) Retail Marijuana Establishments shall be permitted in the Town of Great Barrington.

**Recommended by the Planning Board**

**ARTICLE 26:** (by petition)

To ask Town residents to vote to amend Zoning Bylaw §9.11 as set forth below, and to amend the Zoning Map accordingly:

*1. Amend a portion of Section 9.11, Mixed Use Traditional Zone (MXD) as follows:*

**9.11.2 Location.** The MXD shall consist of the land shown on the ~~2015~~ 2016 Town of Great Barrington Assessors’ Map 22 as Parcels 2, 3A, ~~4-13~~ 4-6, ~~18-63~~ 63, ~~66-88~~ 66-72, 81-88, 88A and on Map 25 as Parcels 1-4.

*2. Amend the Zoning Map by placing the following parcels in a R3 zone, as follows: the land shown on the 2016 Town of Great Barrington Assessors’ Map 22 as Parcels 7-13, 18-62, 73-80.*

Purpose of the Amendment: At the 2016 Annual Town Meeting the Town Planning Board put through a proposal that created the MXD zone. The stated purpose of the 2016 proposal cites “the recommendations of the 2013 Master Plan to update the zoning in certain commercial areas within walking distance of a village center, to preserve and enhance the mix of residential and retail uses, and to reflect the context of the built fabric.” This MXD zone does not accomplish its stated purposes. It joins together two drastically different neighborhoods: the Mahaiwe Triangle (mostly residential parcels on Pope, Mahaiwe and Manville Streets, and 14 residential parcels along nearby Main Street) with commercial parcels west of Maple Avenue and south of Manville Street. The Mahaiwe Triangle is not a commercial area; it consists of one-family residences 60-120years old with a smattering of houses legally converted into two-family and professional space.

As two separate pending lawsuits are demonstrating, this MXD zone has created a loophole by which land developers are acting without any effective zoning regulations. By examining the Table of Use Regulations in Zoning Bylaw §4.1.2, it is appropriate to place the Mahaiwe Triangle in a R3 Zone.

	Min lot	Width	Front	Side	Rear	Bldg %	Story	Height
R3	5000	50	25	10	30	25	2.5	35
B2	43,560	50	50	20	30	25-40	2.5	35
MXD	5000	50	15	10	10	75	3.5	40

**Not Recommended by the Planning Board**

**ARTICLE 27:** (by petition)

We the undersigned, seek a zoning change to the i2 zoning district. Under use regulations 3.0c section 13(marijuana establishment and Manufacturing) in the i2 Zone. The current zoning is listed as a no. We would ask the planning board to change this to a SB zone.

## Recommended by the Planning Board

### ARTICLE 28: (by petition)

We the undersigned submit this citizen's petition to the voters of the Town of Great Barrington:

To see if the Town will vote to amend sections 7.18.4 and 7.18.5 of the Great Barrington Zoning bylaw 7.18 Marijuana Establishments and Medical Marijuana Treatment Centers and modify section 3.1.4 Table of Uses accordingly or to take any other action relative thereto.

Purpose of the Amendment: The undersigned propose this amendment in response to the concerns expressed by some residents in numerous public meetings and forums as to the negative impacts of marijuana businesses in our community, particularly those located or proposed to be located in or near our residential neighborhoods. Our Master Plan states, "Great Barrington's vision includes protecting and enhancing our compact village centers, historic treasures, natural resources, farms, and open spaces, all of which contribute to Great Barrington's distinctive character. Our goals include directing development and growth into village centers, supporting existing residential neighborhoods, and ensuring that new developments in resource areas are sited and build it in a way that sustains our rural countryside and agricultural areas."

The Master Plan further states, "Residents expect and deserve quiet neighborhoods free from odor, glare, noise and other impacts of commercial activity. Proper buffering and design standards can help ensure business remains healthy and residential property values remain stable, while still encouraging concentration of development in the core areas." The undersigned bring forward the below changes to Zoning by law 7.18 in an effort to better align this bylaw and the Table of Uses with the goals and objectives of the Master Plan.

Proposed deletions of existing text are ~~struck through~~.  
Proposed insertions are underlined.

*Amend Portions of Section 7.18.4 as follows:*

**7.18.4. Locational requirements.** Marijuana establishments may be located in accordance with Section 3.1.4, Table of Use Regulations, except as follows:

1. No marijuana establishment or medical marijuana treatment center may be located closer than ~~200~~ 500 feet from a preexisting public or private school providing education in Kindergarten or any of Grades 1 through 12 child care facility, including preschools and daycare centers, or any facility in which children commonly congregate, including, but not limited to, a public library, a playground or park, and athletic field or recreational facility, a place of worship, or a town-owned beach.

2. The distance in paragraph 1 is to be measured in a straight line from the nearest point of the property line of the proposed marijuana establishment or medical marijuana treatment center and the nearest point of the property line of the protected uses stated above in paragraph 1.

3. The Selectboard may, by special permit pursuant to Section 10.4, authorize a deviation from this distance requirement if it finds the marijuana establishment or medical marijuana treatment center will not be detrimental to a protected use.

4. No Marijuana Establishment of Medical Establishment of Medical Marijuana Treatment Center will be allowed in any Residential District as described in Section 2.0 of the Zoning Bylaws.

4. 5. Other types of marijuana establishments licensed by the Massachusetts Cannabis Control Commission may be permitted in accordance with the appropriate use category in the Table of Use Regulations.

*2. Amend portions of Section 7.18.5 as follows:*

**7.18.5. Physical Requirements.** In addition to pertinent requirements of implementing regulations of the Massachusetts Cannabis Control Commission. Marijuana establishments and medical marijuana treatment centers shall comply with the following:

1. All aspects of a marijuana establishment or medical marijuana treatment center relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, marijuana accessories, related supplies, or educational materials shall take place at a fixed location within a fully enclosed building or fenced area dedicated to the cultivation of marijuana and shall not be visible from the exterior of the business.

2. No unprotected storage of marijuana, related supplies, or educational materials is permitted.

3. No use shall be allowed by a Marijuana Establishment of Medical Marijuana Treatment Center which creates a nuisance to abutters of the surrounding area, or which creates any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

4. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of a Marijuana Establishment or Medical Marijuana Treatment Center or at any adjoining use of property.

5. No noise from the establishment of its operations, including but not limited to ventilation, can be detected by a person with unimpaired and otherwise normal hearing at the exterior of a Marijuana Establishment of Medical Marijuana Treatment Center or at any adjoining use or property.”

6. Marijuana Establishments or Medical Marijuana Treatment Centers with grow operations in a translucent building shall not illuminate grow operations between dusk and dawn.

3. 7. Marijuana not grown inside a securable structure shall be enclosed within a six-foot fence, and inasmuch as possible the plants shall be screened from view, at grade, from a public way or from a protected use.

4 8. No outdoor cultivation of marijuana shall be allowed within ~~fifty (50)~~ two hundred (200) feet of any property line.

### **Not Recommended by the Planning Board**

#### **ARTICLE 29:** (by petition)

To see if th8e residents of this Town will vote to amend Chapter 241 of the Town Code, Division 3 Miscellaneous Rules and Regulations, as set forth below:

*Amend Section 241-1 Placement on Agenda, as follows:*

Every Great Barrington committee or board, whether appointed or elected, shall place on their agenda of public meetings an item for citizen speak time. Except for procedural and housekeeping matters, Town residents shall have the right to address a Board on any item that requires a vote at a time before a Board votes on that item. Such residents will be allowed as much time as the proponent of an item is permitted to have.

*Purpose of the Amendment:* Under current law and procedure, residents have the right to speak at a public hearing or on a special permit or during Citizen Speak at the end of the evening’s meeting or when recognized by the Chair of a Board. There are often items on the agenda of a public meeting for which a Board will have a discussion and vote. Each Board allows the proponent of an item to present its proposal and to present evidence and testimony relative to such proposal. During and after such presentation, a Board may ask questions of the proponent. Rarely does a Board allow residents the right to speak at that time, before a vote on the item. Residents may speak as of right during the Citizen Speak portion at the end

of a meeting. But this may be of little consequence to the merits of a proposal as a vote has already been taken. There are often meetings where a Board member may commend a resident on their comment and how the comment was relevant to the proposal. Unfortunately, the vote had already been taken.

This amendment will give residents the right to speak on a particular item at a time when the discussion of an item is still a viable matter. That is, the right to speak and offer comment on matters that affect them, before a Board has voted. In this way, a Board will have the benefit of hearing more than one side of an issue, not just the proponent but also those affected by such proposal. A Board must listen to more than just the proponent of a proposal.

**ARTICLE 30:** (by petition)

To see if the residents of this Town will vote to amend Chapter 189 of the Town Code, Division 2 Selectmen's Regulations, as set forth below:

*Amend Section 189-1 Meetings, subdivision C, paragraph (4), as follows*

(4) Although the press and the public have the right to be present at any open meeting, they have no right to participate unless they are recognized by the Chairman. Except for procedural and housekeeping matters, Town residents shall have the right to address the Board on any item that requires a vote at a time before the Select Board votes on that item. Such residents will be allowed as much time as the proponent of an item is permitted to have.

*Purpose of the Amendment:* Under current law and procedure, residents have the right to speak at a public hearing or on a special permit or during Citizen Speak at the end of an evening's meeting or when recognized by the Chair of the Select Board. There are often items on the agenda of a public meeting for which the Select Board will have a discussion and vote. The Select Board allows the proponent of an item to present its proposal and to present evidence and testimony relative to such proposal. During and after such presentation, the Select Board may ask questions of the proponent. Rarely does the Select Board allow residents the right to speak at that time, before a vote on the item. Residents may speak as of right during the Citizen Speak portion at the end of a meeting. But this may be of little consequence to the merits of a proposal as a vote has already been taken. As an example there was a recent meeting where a Board member commended the resident on their commitment and how the comment was relevant to the proposal. Unfortunately, the vote has already been taken.

This Amendment will give residents the right to speak on a particular item at a time when the discussion of an item is still a viable matter. That is, the right to speak and offer comment on matters that affect them, before the Board has voted. In this way, the Board will have the benefit of hearing more than one side of an issue, not just the proponent but also those affected by such proposal. The Board must listen to more than just the proponent of a proposal.

**ARTICLE 31:** (by petition)

**Resolution to Prohibit Hazardous and Toxic Waste Storage, Disposal, or Dumping in Great Barrington MA**

To see if the Town of Great Barrington will vote to approve the following resolution:

Whereas the storage and disposal of hazardous and toxic waste, including PCB's from a variety of sources to include the "Rest of River" cleanup by GE is deleterious to the health of all life;

Whereas the storage and disposal of such waste is antithetical to the Food Sovereignty and Pollinator Friendly resolutions as adopted by the Town of Great Barrington;

Whereas we have sovereign rights as promulgated and protected under the Constitution of the United States of America, among them Life, Liberty and the Pursuit of Happiness. Without our health, healthy water, land and air, we are denied those inalienable rights;

Therefore, we, the citizens of the Town of Great Barrington, do here by adopt this resolution that prohibits the disposal, dumping or storage of hazardous and toxic waste from any source on the land or in the water in the Town of Great Barrington (including Housatonic) under any circumstances to ensure our rights and the rights of future generations to a healthy life.

**ARTICLE 32:** (by petition)

We sign this petition to close down and outlaw all privately owned "prisons-for-profit" state-wide in MA. These institutions are literally ruining the lives of countless inmates (and their loved ones), whereas properly run and supported State correctional facilities do help rehabilitate people giving them hop in the present, and futures they can look forward to, namely, the chance to contribute to society and live more and more meaningful lives for themselves and others.

**HEREOF FAIL NOT**, and of this Warrant and your doings thereon, make due return to the Clerk of said Town at or before the time and place of said meeting.

Given under our hands and the seal of the Town of Great Barrington, this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Stephen C. Bannon, Chair

\_\_\_\_\_  
Edward D. Abrahams

\_\_\_\_\_  
William F. Cooke

\_\_\_\_\_  
Kate F. Burke

\_\_\_\_\_  
Leigh S. Davis

**Selectboard of the Town of Great Barrington**

A TRUE COPY ATTEST:

\_\_\_\_\_  
William R. Walsh, Chief of Police  
Town of Great Barrington

**COMMONWEALTH OF MASSACHUSETTS**

**BERKSHIRE, SS.**

I hereby certify that I have served the foregoing warrant by posting duly attested copies thereof in the following places in the Town of Great Barrington, namely:

The vestibule of the Town Hall Building and the Post Office in the Town of Great Barrington, the Post Office in the Village of Housatonic, Mason Library in the Town of Great Barrington, and the Ramsdell Library in the Village of Housatonic, Fourteen days, at least before the time of holding the within mentioned Town Meeting.

WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
William R. Walsh, Chief of Police  
Town of Great Barrington