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## TOWN OF GREAT BARRINGTON MASSACHUSETTS

### OFFICE OF THE TOWN MANAGER

\*\*\*Revised Agenda\*\*\*

\*\*\*Only the Zoom meeting link was revised. All other information remains the same.\*\*\*

Selectboard Meeting Agenda for Monday September 14, 2020, at 6:00 PM, Via Zoom  
Order of Agenda

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/81440337168?pwd=V1ZaR2J5OEk4YzNzNTU3WllWNTNkdz09>

Webinar ID: 814 4033 7168

Passcode: 008844

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

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'S ANNOUNCEMENTS/STATEMENTS
3. TOWN MANAGER'S REPORT
  - a. Housatonic Water Works Update
  - b. Police Department update, comfort Dog
  - c. June/July/August Warrant Summaries
  - d. Downtown Parking and Public Bathrooms
  - e. Elderly/Disabled Transportation
4. NEW BUSINESS
  - a. SBREPC Recertification
  - b. Great Barrington Housing Authority Complaint (Discussion/Vote)
5. PUBLIC HEARING
  - a. 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, and August 24, 2020)  
(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. 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.*
7. SELECTBOARD'S TIME
8. MEDIA TIME
9. ADJOURNMENT

NEXT SELECTBOARD MEETING

Special Town Meeting September 15, 2020

Regular Meeting September 21, 2020

Regular Meeting October 5, 2020

Regular Meeting October 21, 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.*

**Warrant Summary**  
**June 3,2020 - June 30,2020**

**Accounts Payable Warrants:**

<u>Warrant #</u>	<u>Date</u>	<u>Total</u>
W20-46	6/3/2020	99,531.23
W20-47	6/10/2020	54,902.39
W20-48	6/17/2020	132,648.84
W20-49	6/24/2020	60,587.96
W20-51W	6/30/2020	5,721,850.10
		<u>\$ 6,069,520.52</u>

Department	W20-46 6/3/2020	W20-47 6/10/2020	W20-48 6/17/2020	W20-49 6/24/2020	W20-50 6/30/2020
Selectboard/Town Manager	9,746.86	1,164.44			
Technology	353.96	895.44			
Assessors		50.50			
Collector/Treasurer	290.55	80.00		1,060.34	6,976.00
Town Clerk			1,768.08	706.47	
Public Buildings	1,387.89	3,087.87	10,353.60	1,558.33	
Police Department	7,436.09		4,721.43	2,800.26	
Fire Department	510.85	830.00	36,156.81	465.51	
Emergency Management				578.44	
Building Inspector			98.90		
School Assessment					4,182,540.25
Highway	3,211.55	1,765.14	21,380.67	8,824.62	
Health Department					
Grant & Aid/Community Services	35,000.00				
Council on Aging					91.50
Veteran Affairs			5,879.68	270.00	
Libraries	4,566.82	466.87	3,042.42	1,553.40	
Parks & Recreation			2,250.00		
Retirement					
Celebrations				418.50	
Debt Service				1,425.00	990,525.00
Insurance		73.05	1,569.60		139,585.50
COVID-19				3,071.90	
Community Preservation Fund		5,798.17			
Affordable Housing Trust	2,000.00		10,976.40		
Capital Projects	32,631.60	15,238.97	22,818.16	6,525.00	
Grants	1,195.06		10,608.81	22,323.17	
Other Special Revenue Funds	1,200.00	997.80	1,024.28	1,790.88	
Wastewater		19,240.31		1,075.00	85,175.00
P/R Deductions		5,213.83		6,141.14	136,756.82
Fire District					180,200.03
	<u>\$ 99,531.23</u>	<u>\$ 54,902.39</u>	<u>\$ 132,648.84</u>	<u>\$ 60,587.96</u>	<u>\$ 5,721,850.10</u>

**Payroll Warrants:**

<u>Warrant #</u>	<u>Date</u>	<u>Total</u>
PR20-24	6/3/2020	123,688.53
PR20-24A	6/9/2020	1,389.87
PR20-25	6/17/2020	139,502.89
PR20-25A	6/17/2020	3,395.48
PR20-25AV	6/17/2020	(3,395.48)
PR20-25V	6/17/2020	(3,307.85)
PR20-25C	6/17/2020	3,497.07
		<u>\$ 264,770.51</u>

**Warrant Summary**  
**July 1,2020 - July 31,2020**

**Accounts Payable Warrants:**

<u>Warrant #</u>	<u>Date</u>	<u>Total</u>	
W20-50	7/1/2020	32,133.07	} FY20 expenditures
W20-51	7/8/2020	132,075.54	
W20-52	7/15/2020	256,861.05	
W21-01	7/1/2020	169,685.00	
W21-02	7/22/2020	45,421.49	
W21-03	7/29/2020	130,992.31	
W21-03W	7/31/2020	788,652.72	
		\$ 1,555,821.18	

Department	W20-50 7/1/2020	W20-51 7/8/2020	W20-52 7/15/2020	W21-01 7/1/2020	W21-02 7/22/2020	W21-03 7/29/2020	W21-03W 7/31/2020
Selectboard/Town Manager		6,230.54	20,138.27				
Accountant					80.00		
Technology		4,211.90	1,467.88				
Assessors		1,727.25					
Collector/Treasurer		10,170.27	836.43				
Town Clerk	189.40	44.93	207.51			1,348.92	
Conservation						263.00	
Planning/Community Development		2,652.00				2,000.00	
Public Buildings		6,197.84	1,544.11				
Police Department	3,727.17	6,227.99	2,552.55			3,552.73	
Fire Department	1,956.44	4,792.70	13,890.09			2,403.58	
Emergency Management	2,450.73					8,114.93	
Building Inspector		3,656.98			790.00		
School Assessment							
Highway		14,515.88	29,649.66				
Health Department			2,907.93		25.30		
Grant & Aid/Community Services							
Council on Aging			27.49			953.78	
Veteran Affairs	1,973.81				6,998.48		
Libraries		13,160.82	5,992.67				
Parks & Recreation		942.50	18,936.87				
Various Boards & Commissions	1,500.00		797.00		175.00		
Retirement							422,755.72
Celebrations			7.75			300.00	
Debt Service							
State Assessments					5,660.26		
Insurance	373.05	295.00	187.55		5,873.92		136,767.50
COVID-19	2,572.33		248.14		5,666.20		
Special Articles	1,711.10		77,627.89				
Community Preservation Fund			31,270.00		2,185.77	99,000.77	
Affordable Housing Trust		9,975.00		169,685.00			
Capital Projects	12,412.00	9,312.50	8,498.10		10,848.30		
Grants	2,546.99	3,313.25	8,291.81		7,118.26	11,705.04	
Other Special Revenue Funds	720.05	141.46	1,068.00			1,349.56	
Wastewater		28,518.43	27,321.12				123,478.90
P/R Deductions		5,988.30	3,392.23				105,650.60
Fire District							
	\$ 32,133.07	\$ 132,075.54	\$ 256,861.05	\$ 169,685.00	\$ 45,421.49	\$ 130,992.31	788,652.72

**Payroll Warrants:**

<u>Warrant #</u>	<u>Date</u>	<u>Total</u>
PR21-01	7/15/2020	112,237.49
PR21-02	7/29/2020	134,943.53
		\$ 247,181.02

**Warrant Summary**  
**August 5,2020 - August 31,2020**

**Accounts Payable Warrants:**

<u>Warrant #</u>	<u>Date</u>	<u>Total</u>
W21-04	8/5/2020	76,542.40
W21-05	8/12/2020	37,577.01
W21-06	8/19/2020	124,616.73
W21-07	8/26/2020	295,832.64
W21-07MV	8/26/2020	4,764.80
W21-07W	8/31/2020	286,760.93
		<b>\$ 826,094.51</b>

Department	W21-04 8/5/2020	W21-05 8/12/2020	W21-06 8/19/2020	W21-07 8/26/2020	W21-07MV 8/26/2020	W21-07W 8/31/2020
Selectboard/Town Manager		3,137.90		6,718.49		
Finance Committee		180.00				
Accountant						
Technology				142,878.95		
Assessors			332.74	60.00		
Collector/Treasurer		1,658.00		750.66	4,764.80	
Town Clerk		406.18	760.49			
Conservation			119.55			
Planning/Community Development	76.00					
Public Buildings	32,409.65					
Police Department		1,284.01	104.99	1,653.18		
Fire Department		818.85	4,966.66	1,197.78		
Emergency Management		4,920.00				
Building Inspector		288.58	30.80	160.00		
School Assessment						
Highway	9,055.07					
Health Department				53.14		
Grant & Aid/Community Services						
Council on Aging		5,299.79	99.72			
Veteran Affairs			5,389.28	32,195.28		
Libraries	5,846.45	805.37	2,496.26			
Parks & Recreation	1,128.50					
Various Boards & Commissions		300.00				
Retirement						
Celebrations		886.30		800.00		
Debt Service						
Insurance		718.20	65,321.10	1,168.00		133,202.50
COVID-19						
Special Articles	3,198.53		17,363.06	44,131.90		
Community Preservation Fund		3,458.00	4,661.67	37,641.00		
Affordable Housing Trust						
Capital Projects	11,432.95		15,504.58			
Grants	425.00	3,895.25	94.51	400.00		
Other Special Revenue Funds	1,517.87	6,399.08	893.30	150.00		125.09
Wastewater		3,018.42		21,090.59		
P/R Deductions	11,452.38	103.08	6,478.02	4,783.67		153,433.34
Fire District						
	<b>\$ 76,542.40</b>	<b>\$ 37,577.01</b>	<b>\$ 124,616.73</b>	<b>\$ 295,832.64</b>	<b>\$ 4,764.80</b>	<b>\$ 286,760.93</b>

**Payroll Warrants:**

<u>Warrant #</u>	<u>Date</u>	<u>Total</u>
PR21-03	8/12/2020	142,653.12
PR21-04	8/26/2020	134,155.88
		<b>\$ 276,809.00</b>

## EXECUTIVE SUMMARY

**TITLE:** Elderly and Disabled Population Transportation

**BACKGROUND:** For several decades, the Town of Great Barrington has contracted out transportation for our elderly and disabled residents to the Southern Berkshire Elderly Transportation Corp. (SBETC).

In March of 2020, SBETC ceased operations during the COVID-19 pandemic. In June of 2020 they resumed operations and we began negotiations for a fiscal year 2021 contract. Contract negotiations resulted in a 6-month agreement for services to continue through December 31, 2020.

On September 3, 2020 we were notified that SBETC would permanently cease operations on September 30, 2020 which would potentially leave many residents without transportation options.

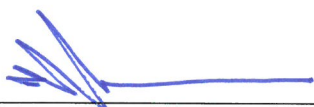
Staff has been working diligently to come up with an alternative program that would provide rides to our residents in need on or before October 1<sup>st</sup>. We are working closely with Berkshire Regional Transit Authority (BRTA) and Representative Pignatelli to expedite the acquisition of vans and develop a program for scheduling, fulfilling, and tracking calls for service.

**FISCAL IMPACT:** None. We believe we can utilize the available transportation funds of \$5,075/month. This budget is funded by an annual State Formula Grant provided by the Massachusetts Councils on Aging, and an annual town appropriation each year. We also have access to a donation account through the Council on Aging that may be available to help offset expenses in the short-term.

**RECOMMENDATION:** Staff recommends the SB allow the town manager and staff to develop a program that will immediately address our transportation needs, and come back to the board with regular updates and a long-term plan and operating budget. Staff further recommends the SB approve the Drug and Alcohol Policy for van drivers (included in your packet).

**PREPARED AND APPROVED BY:**

**DATE:**



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Mark Pruhenski/Town Manager

09/10/2020

# Town of Great Barrington COA

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## Drug and Alcohol Policy

Effective as of September 15, 2020

Adopted by: Selectboard/Town of Great Barrington

Date Adopted: September 14, 2020

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DRAFT



# 1. Purpose of Policy

This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. Copies of Parts 655 and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655.

Portions of this policy are not FTA-mandated but reflect **Great Barrington COA** policy. These additional provisions are identified by **bold text**.

In addition, DOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

**All Great Barrington employees are subject to the provisions of the Drug-Free Workplace Act of 1988.**

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify the COA Director no later than five days after such conviction.

# 2. Covered Employees

This policy applies to every person, including an applicant or transferee, who performs or will perform a "safety-sensitive function" as defined in Part 655, section 655.4.

You are a covered employee if you perform any of the following:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver's license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

See Attachment A for a list of covered positions by job title.

## 3. Prohibited Behavior

Use of illegal drugs is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body at or above the minimum thresholds defined in Part 40. Prohibited drugs include:

- marijuana
- cocaine
- phencyclidine (PCP)
- opioids
- amphetamines

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

## 4. Consequences for Violations

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties for at least eight hours unless a retest results in the employee's alcohol concentration being less than 0.02.

### Zero Tolerance

Per **Great Barrington** policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will be referred to a Substance Abuse Professional (SAP) **and terminated from employment.**

## 5. Circumstances for Testing

### Pre-Employment Testing

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT pre-employment drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

### Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when **Great Barrington COA** has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

### Post-Accident Testing

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

#### Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by **Great Barrington COA** using the best information available at the time of the decision, will be tested.

#### Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
- (3) The vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by **Great Barrington COA** using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

## Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year by the FTA administrator. The current year testing rates can be viewed online at [www.transportation.gov/odapc/random-testing-rates](http://www.transportation.gov/odapc/random-testing-rates).

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

## Random Testing – End of Shift

Random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide advance, verifiable notice of scheduled medical or child care commitments will be random drug tested no later than three hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift. Verifiable documentation of a previously scheduled medical or child care commitment, for the period immediately following an employee's shift, must be provided at least **three (3) hours** before the end of the shift.

## 6. Testing Procedures

All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

### Dilute Urine Specimen

**If there is a negative dilute test result, Great Barrington COA will accept the test result and there will be no retest**, unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

### Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. **Great Barrington** guarantees that the split specimen test will be conducted in a timely fashion.

#### Test Refusals

As a covered employee, you have refused to test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by **Great Barrington COA**.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.

- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or **Great Barrington COA** for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or **Great Barrington COA** Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions and referred to an SAP.

## 7. Voluntary Self-Referral

**Any employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the Human Resource Department, who will refer the individual to a substance abuse counselor for evaluation and treatment.**

**The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.**

**Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.**

## 8. Prescription Drug Use

**The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental**

**functioning, motor skills, or judgment may be adversely affected must be reported to Polly Mann Salenovich Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.**

## 9. Contact Person

For questions about **Great Barrington COA** anti-drug and alcohol misuse program, contact **Polly Mann Salenovich**.

DRAFT

## Attachment A: Covered Positions

List of names who would be in a Safety Sensitive Role (Controls movement of the vehicle)

DRAFT



\*\*\*On town letterhead\*\*\*

Date

Name and title

To Whom It May Concern,

Please be advised that effective this date (or at the date of a meeting) I have appointed (Name of person) the Emergency Response Coordinator for the town of (enter your town name here) to serve in this position until further notice. I fully endorse the Southern Berkshire Regional Emergency Planning Committee and their efforts to maintain a written response plan, the training of emergency responders, the exercising of the plan once a year, the collection and storage of data to meet the public's requests for the region. This is in keeping with the guidelines of the Massachusetts Emergency Response Commission.

Sincerely,

Chairman, Board of Selectmen

## 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 information submitted by applicant for August 24, 2020 meeting:

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

Airport letters in support, since last meeting and up to 3:00 PM Thursday 8/20/2020:

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

Airport letters in opposition, since last meeting and up to 3:00 Pm Thursday 8/20/2020:

<https://www.dropbox.com/s/5ol3cr9e70qggav/airport%20new%20letters%20opposed.pdf?dl=0>

New letters in support (since 8/24 meeting):

<https://www.dropbox.com/s/bvo4x45kha6fjzc/airport%20in%20support%20-%20new%20since%208-24%20meeting.pdf?dl=0>

New letters in opposition (since 8/24 meeting):

<https://www.dropbox.com/s/l45jsebw2etni5j/airport%20in%20opposition%20-%20new%20since%208-24%20meeting.pdf?dl=0>

**Chris Rembold**

---

**From:** Dennis Egan <DEgan@cohenkinne.com>  
**Sent:** Friday, September 11, 2020 2:33 PM  
**To:** Chris Rembold  
**Subject:** Great Barrington Airport Noise Mitigation Plan  
**Attachments:** Noise management.docx

Mr. Rembold:

In advance of the Great Barrington Select Board’s hearing scheduled for Monday, September 14, 2020, attached please find a copy of Great Barrington Airport’s (the “Airport”) revised Noise Mitigation Plan (the “Noise Mitigation Plan”), which was adopted on August 27, 2020 in response to concerns voiced by neighbors of the Airport. The Noise Mitigation Plan has been distributed to all pilots and signage has been added at GBR notifying pilots of the Noise Mitigation Plan.

Should you have any questions please do not hesitate to contact me.

Best,

Dennis

**Dennis G. Egan Jr.**  
Cohen Kinne Valicenti & Cook LLP  
28 North Street, 3rd Floor  
Pittsfield, MA 01201

Direct: (413) 553-0411  
Mobile: (413) 446-1126  
Fax: (413) 553-0334  
Email: [degan@cohenkinne.com](mailto:degan@cohenkinne.com)

**COHEN | KINNE | VALICENTI | COOK**

\*\*\*\*\*  
\*\*\*\*\*  
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CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

August 27, 2020

To GB Airport Pilots,

We, the people who work at the Great Barrington Airport (formerly the Walter J. Koladza Airport) have worked hard to maintain our motto “the friendliest airport in New England” and we will continue to do so. But being friendly also means being a good neighbor to the good people who live near the airport, but who are not aviation enthusiasts. While it is true that many have moved in or built homes near the airport being well aware that there was an airport there, we users of the airport need to be aware that others do not share our enthusiasm for flight operations, and that although grandfathered and protected to continue to operate as an airport, we all need to practice being the friendliest airport by being a good neighbor to airport neighbors.

So how can we be good neighbors? There are actually many things we can do. Most of them are simple and easy to do. The very first thing is simply be aware that every time we takeoff and land, we generate noise. That is a fact and we should not apologize for it. But we can do noise management and be a much better neighbor, save fuel and be safe.

So, first and foremost, BE SAFE! Do whatever you have to do to fly a safe airplane.

Next, comply with our new airport good neighbor procedures, as outlined below.

- Turn right to a heading of 305 degrees as soon as you are comfortable after takeoff on runway 29. Turn further right if winds are from the North to not fly over the houses on Rt 71 west of the airport.
- Climb at best angle speed until at least 400’ AGL, longer if you are comfortable.
- Do not start your turn to crosswind until 700’ AGL if you are remaining in the pattern.
- Climb to or enter the traffic pattern (if returning to GBR) at the newly established Traffic Pattern Altitude of 1750’ MSL and do not descend until abeam the numbers.
- Reduce power to a safe but slower airspeed than cruise as soon as you are at pattern altitude. Airplanes make the most noise at full power and there

is no reason to go smoking down downwind. It will give you more time to set up for a good pattern.

- If you fly a variable pitch prop airplane, come back to climb power as soon as you are comfortable. Climbing out for even a few more seconds with the prop full forward creates a much louder noise footprint. Be aware that your prop is much louder than a fixed pitch prop.
- Get to know your run up procedures in advance, so that when you do your actual run up, it is only as long as necessary. It saves fuel, saves on engine wear and creates less noise. A win for everyone!
- Consider how many takeoffs and landings you need to do at Gt. Barrington if you are doing multiple patterns. There are many airports (Columbia County, Pittsfield, Westfield) that would minimize your time operating in the GBR area that are not far away.

In conclusion, think about the fact that if you fly for 1 hour from point A to point B, about 3 minutes of that time will be spent below 1000' and only 1.5 minutes of that will be spent at full power, yet that will be 100% of what airport neighbors will remember about your flight! Help us be good neighbors so we can remain "the friendliest airport in New England!" Thank you for reading and complying. Feel free to get in touch with me if you have questions.

Kurt Syer

413-218-1081

Good neighbor coordinator

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 that do not conform to the WQPOD;
2. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning district (except as prohibited hereunder). Such activities shall require a special permit to prevent contamination of groundwater;
3. Any use that will render impervious more than 15% of any lot or parcel or 2,500 square feet, whichever is greater. 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*  
P.S. NOTARY



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

*Claudia Shapiro 8/3/2020*

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

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

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

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

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

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

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

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

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

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

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

## Helen Kuziemko

---

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

Another one for the packet.

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

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

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

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

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

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

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

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

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

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

This expansion has no benefit for the town and its citizens. It will only increase the demands on the first responders (fire, police and first aid) and will jeopardize the beauty and safety of the area and its 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", written over a light blue horizontal line.

Thaddeus Heuer

Page 2

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