

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

**WARRANT**

with Recommendations  
by the Finance Committee  
and the Selectboard

Tuesday, September 15, 2020, 6:00 pm



**SELECTBOARD**

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

**FINANCE COMMITTEE**

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

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

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2020 SPECIAL TOWN MEETING

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**TOWN OF GREAT BARRINGTON**

**WARRANT**

**SPECIAL TOWN MEETING 2020**

**COMMONWEALTH OF MASSACHUSETTS**

**BERKSHIRE, SS**

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

**GREETINGS:**

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

**ARTICLE 1:**

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

**ARTICLE 2:**

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

Proposed additions are underlined.

Proposed deletions are ~~struckthrough~~.

§48-1. Definitions.

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

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

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

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

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

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

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

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

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

~~§ 48-4. Mandatory alarm delay.~~

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

§ 48-5. Timing devices.

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

~~§ 48-6. Information to be filed.~~

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

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

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

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

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

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

~~§ 48-7. Permit; fee; revocation.~~

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

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

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

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

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

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

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

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

§ 48-9. Disconnection.

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

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

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

~~§ 48-11. Fees established.~~

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

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

**ARTICLE 3:**

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

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

**ARTICLE 4:**

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

**Recommended by the Selectboard and Finance Committee**

**ARTICLE 5:**

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

**Recommended by the Selectboard and Finance Committee**

**ARTICLE 6:**

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

**Recommended by the Selectboard**

**ARTICLE 7:**

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

**ARTICLE 8:**

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

**ARTICLE 9:**

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

**ARTICLE 10:**

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

**ARTICLE 11:**

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

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

*Amend the Bylaw as follows:*

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

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

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

#### **ARTICLE 12:**

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

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

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

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

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

#### **ARTICLE 13:**

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

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

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

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

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

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



**Recommended by the Planning Board**

**ARTICLE 14:**

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

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

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

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

**Recommended by the Planning Board**

**ARTICLE 15:**

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

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

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

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

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

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

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

#### **ARTICLE 16:**

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

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

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

*Amend Section 11, definitions, as follows:*

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

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

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

**Recommended by the Planning Board**

**ARTICLE 17:**

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

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

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

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

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

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

**Recommended by the Planning Board**

**ARTICLE 18:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. General principles:

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

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

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

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

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

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

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

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

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

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

*Add new Section 7.19:*

## **7.19 Design Review**

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

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

One Planning Board member, appointed by the Planning Board.

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

One Architect or Design Professional appointed by the Selectboard.

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

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

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

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

### **7.19.2 Purpose.**

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

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

### **7.19.3 Authority.**

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

### **9.5.5 Design Review Required**

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

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

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

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

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

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

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

### **ARTICLE 19:**

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

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

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

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

*Amend Section 8.5 as follows:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Recommended by the Planning Board**

**ARTICLE 20:**

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

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

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

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

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

**Recommended by the Planning Board**

**ARTICLE 21:**

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

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

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

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

DRAFT

(Article 21 continued)

Table of Use Regulations

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

Recommended by the Planning Board



**ARTICLE 22:**

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

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

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

*Amend Section 9.2 as follows:*

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

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

**Recommended by the Planning Board**

**ARTICLE 23:**

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

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

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

*Amend Section 8.4 as follows:*

**8.4.2 Requirements.**

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

**Recommended by the Planning Board**

**ARTICLE 24:**

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

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

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

*Add new Section 8.10, as follows:*

**8.10 Conversion to Multifamily Use**

**8.10.1. Purpose:**

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

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

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

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

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

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

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

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

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

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

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

**Recommended by the Planning Board**

**ARTICLE 25:**

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

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

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

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

**Recommended by the Planning Board**

**ARTICLE 26:** (by petition)

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

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

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

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

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

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

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

**Not Recommended by the Planning Board**

**ARTICLE 27:** (by petition)

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

## Recommended by the Planning Board

### ARTICLE 28: (by petition)

We the undersigned submit this citizen's petition to the voters of the Town of Great Barrington:  
To see if the Town will vote to amend sections 7.18.4 and 7.18.5 of the Great Barrington Zoning bylaw 7.18 Marijuana Establishments and Medical Marijuana Treatment Centers and modify section 3.1.4 Table of Uses accordingly or to take any other action relative thereto.

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

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

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

*Amend Portions of Section 7.18.4 as follows:*

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

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

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

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

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

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

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

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

1. All aspects of a marijuana establishment or medical marijuana treatment center relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, marijuana accessories, related supplies, or educational materials shall take place at a fixed location within a fully enclosed building or fenced area dedicated to the cultivation of marijuana and shall not be visible from the exterior of the business.
2. No unprotected storage of marijuana, related supplies, or educational materials is permitted.
3. No use shall be allowed by a Marijuana Establishment of Medical Marijuana Treatment Center which creates a nuisance to abutters of the surrounding area, or which creates any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
4. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of a Marijuana Establishment or Medical Marijuana Treatment Center or at any adjoining use of property.
5. No noise from the establishment of its operations, including but not limited to ventilation, can be detected by a person with unimpaired and otherwise normal hearing at the exterior of a Marijuana Establishment of Medical Marijuana Treatment Center or at any adjoining use or property.”
6. Marijuana Establishments or Medical Marijuana Treatment Centers with grow operations in a translucent building shall not illuminate grow operations between dusk and dawn.
3. 7. Marijuana not grown inside a securable structure shall be enclosed within a six-foot fence, and inasmuch as possible the plants shall be screened from view, at grade, from a public way or from a protected use.
- 4 8. No outdoor cultivation of marijuana shall be allowed within ~~forty (40)~~ two hundred (200) feet of any property line.

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

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

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

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

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

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

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

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

**ARTICLE 30:** (by petition)

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

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

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

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

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

**ARTICLE 31:** (by petition)

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

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

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

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

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

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

**ARTICLE 32:** (by petition)

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



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

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

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

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

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

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

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

**Selectboard of the Town of Great Barrington**

A TRUE COPY ATTEST:

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

**COMMONWEALTH OF MASSACHUSETTS**

**BERKSHIRE, SS.**

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

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

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

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