

**Town of Great Barrington
2015 Annual Town Meeting**

WARRANT

with Recommendations
by the Finance Committee
and the Selectboard

Monday, May 4, 2015



SELECTBOARD

Deborah Phillips, Chair
Sean Stanton
Stephen C. Bannon
Daniel Bailly
Edward Abrahams

FINANCE COMMITTEE

Sharon Gregory, Chair
Michael Wise
Thomas Blauvelt
Walter F. Atwood, III
Leigh Davis

(www.townofgb.org)

TOWN OF GREAT BARRINGTON
2015 ANNUAL TOWN MEETING, MAY 4, 2015

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2015 ANNUAL TOWN MEETING

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TOWN OF GREAT BARRINGTON

WARRANT

ANNUAL TOWN ELECTION
ANNUAL TOWN MEETING

2015

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 to meet at the Great Barrington Fire Station in the Town of Great Barrington in Precinct A for Precincts A, C, and D, and at the Housatonic Community Center Building in the Village of Housatonic, in Precinct B, for Precinct B on Tuesday, May 12th, 2015 at 8:00 A.M. until 8:00 P.M. for the following purposes, viz.; to elect:

MODERATOR, ONE FOR ONE YEAR
SELECTBOARD, TWO FOR THREE YEARS
BOARD OF HEALTH, ONE FOR THREE YEARS
CONSTABLE, TWO FOR THREE YEARS
FINANCE COMMITTEE, TWO FOR THREE YEARS
LIBRARY TRUSTEES, TWO FOR THREE YEARS
PLANNING BOARD, ONE FOR THREE YEARS
ZONING BOARD OF APPEALS, TWO FOR THREE YEARS
HOUSING AUTHORITY, ONE FOR FIVE YEARS

The above named officers and ballot questions will be voted for on official ballots prepared by the Town Clerk.

BALLOT QUESTION: Shall the Town of Great Barrington be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued in order to pay costs of remodeling, reconstructing and making extraordinary repairs to the Dewey School Building and property, including the payment of all costs incidental and related thereto?

You are also required to notify and warn the Inhabitants of said town, qualified to vote in town affairs, to meet at the Monument Mountain High School in Great Barrington on Monday, May 4th, 2015, 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 use of revolving funds for the following programs and purposes:

- a. Plumbing Inspector (\$15,000)
- b. Wire Inspector (\$40,000)
- c. Gas Inspector (\$15,000)
- d. Town Code Printing (\$10,000)
- e. Parks Commission (\$5,000)
- f. Recycling/Green Product Sales (\$5,000)
- g. Cemetery (\$5,000)
- h. Fire Inspectors (\$5,000)

which revolving funds together shall not exceed the sum of One Hundred Thousand Dollars (\$100,000), which shall be under the control of the Town Treasurer, which shall be accounted for separately and to which shall be credited only the departmental receipts received in connection with the programs supported by each revolving fund; further to authorize the Town Treasurer to expend from such funds in accordance with Chapter 44, §53 E 1/2 of the General Laws, provided however that said expenditures for all revolving funds shall not exceed the receipts for such funds; or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 2:

To see if the Town will vote to accept MGL Chapter 60, §15B to establish a tax title collection revolving fund , which shall be under the control of the Town Treasurer, which shall be accounted for separately and to which shall be credited any fees, charges, and costs collected upon the redemption of tax titles and sales of real property acquired through foreclosures of tax titles; and further to authorize the Town Treasurer to expend from such funds in accordance with the Mass General Laws, provided however that said expenditures for such revolving fund shall not exceed the receipts for such fund; and to raise and appropriate the sum of \$10,000 to start this revolving fund; or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 3:

To see if the Town will vote to fix the salaries of all elected officials for the period of July 1, 2015 to June 30, 2016 as indicated below:

Elected Officials Salaries:

Selectboard: \$7,500 (\$1,500 per Selectboard member)

Recommended by the Finance Committee and the Selectboard

ARTICLE 4:

To see if the Town will vote to accept any and all funds being provided by the Commonwealth of Massachusetts Division of Transportation (Mass DOT), under the provisions of Chapter 90 of the General Laws, to pay for such costs as allowed by appropriate legislation in connection with the maintenance, repair, and construction of Town ways and bridges, or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard**ARTICLE 5:**

To see if the Town will vote to appropriate \$ 639,000, or any other sum of money, in the following approximate amounts and for the following purposes:

Highway Storage Facility	\$	210,000
Police Cruisers (2)		80,000
Fire Chief Vehicle		40,000
Pickup Trucks (2)		117,000
Dump Truck (1)		<u>192,000</u>
Total	\$	639,000

And for the payment of all other costs incidental and related thereto, and to determine whether this appropriation shall be raised by taxation, transferred from available funds, borrowing or otherwise; or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard**ARTICLE 6:**

To see if the Town will vote to appropriate \$80,500, or any other sum, for the following General Fund Capital Items and to determine whether this amount shall be raised by taxation, transferred from available funds or otherwise:

<u>General Fund</u>	
<u>Town Manager/Selectboard</u>	
Copier	\$ 10,500
Total	10,500
<u>Public Works</u>	
Pedestrian Tunnel Rehab design	10,000
Senior Center Building Repairs	15,000
Total	25,000
<u>Parks</u>	
Improvements	45,000
Total	45,000
Total Capital-General Fund	\$ 80,500

Recommended by the Finance Committee and the Selectboard

ARTICLE 7:

To see if the Town will vote to raise and appropriate or transfer from available funds such sums of money necessary for the operation of the several departments in the Town for the ensuing year as detailed in the FY 16 Annual Budget for the General Fund, or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 8:

To see if the Town will vote to appropriate from the receipts of the Wastewater Treatment Plant such sums of money necessary for the operation of the Sewer Division for the ensuing year as detailed in the FY 16 Annual Budget for the Sewer Fund, or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 9:

To see if the Town will vote to appropriate \$500,000, or any other sum of money, to pay the costs of remodeling, reconstructing and making extraordinary repairs to the Dewey School Building and property, including the payment of all costs incidental and related thereto; to determine whether this amount shall be raised by taxation, transfer from available funds, borrowing or otherwise, or take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 10:

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Thirteen Million, Nineteen Thousand , Seven Hundred and Sixty Nine Dollars (\$13,019,769.00) for the operating assessment, and Five Hundred Four Thousand Seven Hundred and Thirty Five Dollars (\$504,735.00) for the capital assessment, for a total assessment of Thirteen Million, Five Hundred Twenty Four Thousand, Five Hundred Four Dollars (\$13,524,504.00) of the Berkshire Hills Regional School District, or take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 11:

To see if the Town will vote to authorize the use of the Pension Reserve Fund to reduce the FY 16 appropriation required under Chapter 32 of the General Laws for the Berkshire Regional Retirement System, or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 12:

To see if the Town will vote to authorize the use of Free Cash to reduce the tax levy for Fiscal Year 2016, or to take any other action relative thereto.

Recommended by the Finance Committee and the Selectboard

ARTICLE 13:

To see if the Town will vote to appropriate or reserve for future appropriation, from the community preservation fund, the following amounts recommended by the Community Preservation Committee for fiscal year 2016, with each item to be considered a separate appropriation, or take any other action relative thereto.

Reserves:

From FY 2016 revenues for Historic Resources Reserve	\$43,050
From FY 2016 revenues for Community Housing Reserve	\$43,050
From FY 2016 revenues for Open Space Reserve	\$43,050

Appropriations:

From FY 2016 revenues for administrative expenses	\$21,525
From FY 2016 revenues for 2016 Budgeted Reserve	\$49,825
From undesignated fund balance for 2016 Budgeted Reserve	\$250,000

Recommended by the Finance Committee and the Selectboard**ARTICLE 14:**

To see if the Town will vote to appropriate from the Community Preservation Fund for Fiscal Year 2016 the following amounts recommended by the Community Preservation Committee with each item to be considered a separate appropriation, or to take any other action relative thereto.

	<u>Project</u>	<u>Total Appropriation</u>	<u>Source of Appropriation</u>		
			2015 budgeted reserve	reserved funds balances (housing, open space, or historic)	2016 revenues
	<u>AFFORDABLE HOUSING</u>				
1	100 Bridge Street - creation of affordable units	\$200,000	\$80,000	\$120,000	
	Total Affordable Housing	\$200,000	\$80,000	\$120,000	\$0
	<u>HISTORIC PRESERVATION</u>				
2	Mahaiwe Arts - foundation/basement drainage remediation	\$30,000	\$30,000		
3	St. James Place - roof repair/replacement	\$150,000		\$120,000	\$30,000
4	Town Newsboy Statue/Fountain - restoration	\$31,640	\$31,640		
5	Wheeler Farmstead - preservation historic buildings	\$50,000	\$50,000		
6	Town Hall - design repair plans for eaves	\$20,000	\$20,000		
7	Town Mason Library - restoration/repairs cupola and roof	\$65,000	\$65,000		
	Total Historic Preservation	\$346,640	\$196,640	\$120,000	\$30,000
	<u>OPEN SPACE</u>				
8	100 Bridge Street - riverfront open space	\$300,000		\$100,000	\$200,000
9	The Trustees of Reservations - rehab and creation of trails	\$20,000		\$20,000	
	Total OpenSpace	\$320,000	\$0	\$120,000	\$200,000
	TOTAL	\$866,640	\$276,640	\$360,000	\$230,000

Recommended by the Finance Committee and the Selectboard

ARTICLE 15:

To see if the Town will vote to amend the Finance Committee Bylaw Chapter 7, Article II of the Code of Great Barrington, by adding a new section, § 7-6.1, Financial Reports and Information, as follows, or to take any other action relative thereto.

§ 7-6.1. Financial Reports and Information.

Regular and special reports and statements concerning the Town's financial situation and operations, including its enterprise and other funds, and similar reports for the Berkshire Hills Regional School District shall be transmitted to the Finance Committee. The Committee may receive such transmissions via physical copy, e-mail attachment or the equivalent, or URL link.

Recommended by the Finance Committee and Not Recommended by the Selectboard

ARTICLE 16:

To see if the Town will vote to accept the provisions of MGL chapter 143, section 3Z, in order to permit a part time Building Inspector to practice for hire or engage in the business for which he is certified, licensed or registered under the State Building Code, while serving as such inspector, or to take any other action relative thereto.

ARTICLE 17:

To see if the Town will vote to amend Chapter 168 of the Code of Great Barrington, the Wetlands Bylaw, by deleting the existing text and replacing it with the revised text shown below, or to take any other action relative thereto:

Chapter 168. WETLANDS

168 - 1. Purpose

A. The purpose of this bylaw is to protect the wetlands, water resources, and adjoining land areas in the Town of Great Barrington by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public and private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution prevention, wildlife habitat, rare species habitat including rare plant species, agriculture, and aquaculture (collectively, the “resource area values protected by this bylaw”).

B. The regulatory procedures and paperwork system employed by the Conservation Commission to administer this bylaw are similar to those employed under the Wetlands Protection Act (M.G.L. Ch. 131, Sec. 40) and Wetlands Regulations (310 CMR 10.00). This Wetlands Bylaw and the Wetlands Protection Act and Regulations share much terminology in common. In both cases, an application for permission to do work in or near a wetland resource area is known as a Notice of Intent (hereinafter NOI) and the document issued by the Commission that allows that work to go forward, subject to certain conditions, is known as an Order of Conditions (hereinafter OOC).

C. There are however differences between this Wetlands Bylaw and the Wetlands Protection Act and Regulations. Notably, this bylaw is intended to utilize the Home Rule authority of Great Barrington to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act and Regulations thereunder.

168 - 2. Jurisdiction

A. Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following wetland resource areas: any freshwater wetland; marsh; wet meadow; bog; swamp; vernal pool; bank; reservoir; lake; 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 wetland 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 and streams (hereinafter Riverfront Area); 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 “wetland resource areas protected by this bylaw”).

168 - 3. Conditional Exceptions

A. The NOI from an applicant and the OOC issued by the Conservation Commission that are required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, sanitary or storm sewers, or public drinking water systems, provided that written notice has been given to the Commission prior to the commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

B. The NOI and OOC required by this bylaw shall not be required for work performed for normal maintenance or improvement of land which is lawfully in agricultural use at the time the work takes place.

C. The NOI and OOC required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of the work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project an NOI shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

D. The NOI and OOC required by this bylaw shall not be required for the exemptions under the Rivers Act amendments to the Wetlands Regulations [see 310 CMR 10.58(6)].

E. The exceptions under 168-3 A thru D above are the only exceptions to the requirements under this bylaw for an applicant to submit an NOI and the Commission to issue an OOC.

168 - 4. Notices of Intent, Orders of Conditions and Requests for Determination

A. An NOI shall be filed with the Commission by the person seeking to perform activities affecting resource areas protected by this bylaw. The NOI shall include such information and plans as are specified in the Regulations of the Commission to describe proposed activities and

their effects on the resource areas protected by this bylaw. No activities shall commence without the applicant receiving and complying with an OOC issued pursuant to this bylaw.

B. The Commission may accept as the NOI and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act (M.G.L. Ch. 131, Sec. 40) and Regulations (310 CMR 10.00).

C. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may request in writing a determination from the Commission. Such a Request for Determination of Applicability (hereafter RDA) shall include information and plans as are deemed necessary by the Commission to locate the subject property, understand the proposed work and make the requested determination. The Commission may accept as the RDA and plans under this bylaw the Request for Determination of Applicability and plans filed under the Wetlands Protection Act (M.G.L. Ch. 131, Sec. 40) and Regulations (310 CMR 10.00).

D. At the time of submission of an NOI or an RDA to the Commission, the applicant shall pay a filing fee specified in the Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act (M.G.L. Ch. 131, Sec. 40) and regulations (310 CMR 10.00). The filing fee shall be commensurate with the reasonable expenses incident to the Commission's process of permitting.

E. Upon receipt of an NOI or an RDA, or at any point during its deliberative process, as provided by M.G.L. Ch. 44, Sec. 53G, the Commission is authorized to impose upon the applicant a reasonable fee, to be collected in advance, and estimated to be sufficient to pay for the employment of outside consultants, engaged by the Commission, for specific expert services deemed necessary by the Commission to come to a final decision on the NOI or RDA. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydro geologic and drainage analysis; and researching environmental or land use law. The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. Any unexpended portion of the consultant fee shall be returned to the applicant.

F. The Commission may waive the filing fee, consultant fee, and any other costs or expenses associated with processing an NOI or an RDA filed by a government agency.

168 - 5. Notice and Hearings

A. If an RDA is submitted to the Commission by a person other than the owner of the subject property, the RDA shall include certification that the owner of the subject property has been notified that a determination is being requested.

B. Within 21 days after the date of receipt of a completed RDA, the Conservation Commission shall hold a public meeting to consider issuing a Determination of Applicability. Notice of the time and place of the public meeting shall be given by the Conservation Commission not less than five days prior to such meeting by publication in a newspaper of general circulation in Great

Barrington and by mailing a notice to the person making the request and the owner. Notice shall also be given in accordance with the open meeting law, M.G.L. Ch. 39, Sec. 23B. The determination shall be issued within 21 days of the closing of the Commission's deliberations, unless the matter is continued to a date and time certain, announced at the meeting, and by consent of the Commission and the person making the request. Said determination shall be signed by a majority of the Conservation Commission, and copies thereof shall be sent by the Commission to the person making the request and to the owner. Delivery of the copy to the person making the request shall be by hand delivery or certified mail. Said determination shall be valid for three years from the date of issuance.

C. Any person filing an NOI with the Commission at the same time shall give written notice thereof, by certified mail, by hand delivery or by certificates of mailing, to all abutters at their mailing addresses shown on the most recent certified tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the NOI with plans, or shall state where copies may be examined and whom to contact for additional information or to obtain a copy of the NOI. An affidavit of the person providing such notice, with a copy of the abutters list and the notice mailed or delivered, shall be filed with the Commission.

D. The Commission shall conduct a public hearing on any complete NOI it receives, with written notice given no less than five business days prior to the hearing in a newspaper of general circulation in Great Barrington. The Commission shall commence the public hearing within 21 days from receipt of a complete NOI unless an extension is authorized in writing by the applicant. The Commission shall have the authority to continue the hearing, with the consent of the applicant, to a certain date and time announced at the hearing, for reasons stated at the hearing, which may include the anticipated or requested receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion. In the event that the applicant objects to a continuance, the hearing shall be closed and the Commission shall take action on such information as is available. The Commission shall issue an OOC in writing within 21 days of the close of the public hearing, unless an extension is authorized in writing by the applicant.

E. The Commission may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (M.G.L. Ch.131, Sec.40) and Regulations (310 CMR 10.00).

168 - 6. Coordination with Other Boards

Upon receipt of a complete NOI, the Commission shall provide a brief summary thereof, with information as to where the complete NOI may be reviewed, to the Planning Board, Board of Health, and Building Commissioner. If the NOI pertains to property within 300 feet of a neighboring municipality, the Commission will also send a copy of the same summary to the Conservation Commission of the neighboring municipality. The Commission shall not take final action until the above boards and officials have had 14 days to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission.

168 - 7. Determinations and Conditions

A. The Commission shall have the authority, after a public meeting, to determine whether a specific parcel of land contains or does not contain resource areas protected under this bylaw. If the Commission finds no such resource areas are present, it shall issue a negative determination.

B. If the Commission, after a public hearing, determines that the activities which are the subject of an NOI, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative negative effect upon the resource area values protected by this bylaw, the Commission may disapprove the activities or uses proposed within 21 days of the close of the hearing. If the Commission approves the activities or uses proposed, the Commission shall impose conditions which it deems necessary or desirable to protect those resource area values, and all activities shall be done in accordance with those conditions. The document issued by the Commission which includes its approval and imposed conditions is known as the OOC.

C. The Commission is empowered to disapprove an NOI for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

D. Lands adjacent to resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within, or in some instances up to the full extent of the 200-foot riverfront area or 100 foot buffer zone.

E. To prevent wetlands loss, the Commission: shall require applicants to avoid wetlands alteration wherever feasible; shall require applicants to minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. Because of the high likelihood of failure of replication, the Commission may authorize or require replication of wetlands on a two-to-one basis as a form of mitigation, but only with adequate security (see 168-10 below) and with professional design and monitoring by a licensed wetlands specialist to assure success.

F. An OOC shall expire three years from the date of issuance. Notwithstanding this, the Commission at its discretion may issue an OOC expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and

location of work is given to the Commission prior to such work. At the Commission's discretion, an OOC may be renewed for up to an additional 3 year period, provided that a request for a renewal is received in writing by the Commission more than 30 days prior to expiration. Notwithstanding the above, an OOC may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection (e.g., a conservation restriction or easement) is in place, and shall apply to all owners of the land.

G. For good cause, the Commission may revoke or modify an OOC issued under this bylaw after public notice to the holder of the OOC, notice to the public and town boards pursuant to 168-5 and 168-6 above, and a public hearing.

H. The Commission may combine the OOC or determination issued under this bylaw with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act (M.G.L. Ch. 131, Sec. 40) and Regulations (310 CMR 10.00).

I. No work proposed in any NOI shall be undertaken until the OOC issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the OOC notifies the Commission of its recording and provides the relevant book and page references.

J. Upon completion of work proposed in any NOI and undertaken according to an OOC issued by the Commission, the holder of the OOC shall submit to the Conservation Commission a written request for a Certificate of Compliance with the recorded OOC. If the NOI included plans prepared and signed by a licensed professional(s), the request for Certificate of Compliance must include signed statement(s) by said licensed professional(s) that the work has been completed in substantial compliance with the final plans. If the Commission determines that all work has been completed according to the OOC, it shall issue a Certificate of Compliance, which the holder of the OOC shall have recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and the holder of the OOC shall notify the Commission of its recording and shall provide the relevant book and page references.

168 - 8. Promulgation of Rules and Regulations

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw effective when voted by the Commission and filed with the town clerk. The Commission may amend the rules and regulations after public notice and public hearing. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. Unless otherwise stated in this bylaw or in the rules and regulations, the definitions, procedures, and performance standards of the Wetlands Protection Act (M.G.L. Ch.131, Sec. 40) and regulations (310 CMR 10.00) as most recently promulgated shall apply.

168 - 9. Definitions

A. The following definitions shall apply in the interpretation and implementation of this Bylaw (For additional definitions, see Wetlands Regulations 310 CMR 10.04 and Regulations promulgated by the Great Barrington Conservation Commission):

B. The term “person” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, Town of Great Barrington, and any other legal entity, its legal representatives, agents, or assigns.

C. The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within, or affecting resource areas protected by this bylaw:

- (1) Removal, excavation, or dredging of soil, sand, gravel, clay, minerals, or aggregate materials of any kind
- (2) Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics
- (3) Drainage, or other disturbance of water level or water table
- (4) Dumping, discharging, or filling with any material which may degrade water quality
- (5) Placing of fill, or removal of material, which would alter elevation
- (6) Driving of piles, erection or repair of buildings or structures of any kind
- (7) Placing of obstructions or objects in water
- (8) Destruction of plant life including cutting or clearing of grasses, shrubs or trees
- (9) Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- (10) Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- (11) Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

168 - 10. Security

- A. As part of an OOC issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:
 - (1) By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the OOC.
 - (2) By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

168 - 11. Enforcement

- A. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with an OOC or an enforcement order issued pursuant to this bylaw.
- B. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth of Massachusetts.
- C. The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.
- D. Upon request of the Commission, the Selectboard and the town counsel may take legal action for enforcement under civil law. Upon request of the Commission, the chief of police may take legal action for enforcement under criminal law.
- E. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

- F. Any person who violates any provision of this bylaw, or regulations, administrative orders issued thereunder, or has failed to obtain the necessary Commission approval, may be punished by a fine of not more than \$300 per each offense. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.
- G. As an alternative to criminal prosecution, the Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, Sec. 21D and Section 1-5.1 of the Town General Bylaws, in which case the Conservation Commission and its agent shall be enforcing persons.

168-12. Burden of Proof

The person who submits an NOI to the Commission shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the NOI will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to disapprove proposed work or other activities or to approve proposed work or other activities with strict conditions.

168-13. Appeals

A decision of the Commission under this wetland bylaw shall be reviewable in the Superior Court in accordance with M.G.L. Ch. 249, Sec. 4.

168-14. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (M.G.L. Ch. 131, Sec. 40) and Regulations (310 CMR 10.00) thereunder.

168-15. Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

168-16. Effect of Bylaw Change on Pending Applications

A project for which the NOI was filed or final OOC was issued prior to the effective date of a change to this bylaw shall be subject to the previous provisions of the bylaw.

Recommended by the Selectboard

ARTICLE 18:

To see if the Town will vote to amend the Zoning Bylaw by adding a new Section 9.9, Housatonic Village Center (HVC) zone, by adding a new Section 9.10, Housatonic Village Overlay District (HVOD), by revising Section 3.1.4, Table of Use Regulations to provide for uses in the HVC zone, by revising Section 4.1.2, Schedule of Dimensional Requirements to add provisions for the HVC zone, as set forth below, by revising Section 8.4.1 to clarify applicability of mixed-use requirements, and by revising the Zoning Map accordingly, as shown below, or to take any other action relative thereto.

Purpose of the amendments: This proposed amendment is taken pursuant to the recommendations of the 2013 Master Plan to update the dimensional and use regulations in Housatonic Village in order to promote village-scale development, allow mixed uses, shared parking, and a variety of housing and employment options. A Housatonic Village Center (HVC) zone will replace the existing B2 zone. The B2 zone allows commercial development at scales inappropriate for a village center that was developed with compact lots and little parking. The existing B2 zone also restricts residences to lots of 1/2 acre or more in size, making most residential uses and almost 75% of the B2 lots in Housatonic nonconforming. In fact, much of what was developed in the village over the last 100-150 years and still exists today would not be permitted under the current B2 zoning. The HVC will also:

- Bring all currently nonconforming structures into conformance.
- Allow for mixed-use properties, live-work use, and small restaurants by right in the HVC.
- Cap by-right retail uses at 6,500 square feet, but allow retail up to 10,000 square feet by Special Permit from the Selectboard, and up to 20,000 square feet in the case of historic structures such as the former school.
- Reduce parking requirements to reflect the walkability of the village center.
- Eliminate the B2 zone in the village and replace it with the new HVC district.
- Rezone the east side of Meadow Street, currently split by zoning districts, to HVC.
- Rezone 425 Park St and its rear lots from R2 to HVC, rezone 421 Park Street from I to HVC, and rezone 402 Park Street from R3 to HVC. These parcels are nonconforming in their existing zones.

A Housatonic Village Overlay District (HVOD) will supplement the existing R3 regulations and:

- Maintain the existing residential context of Main, Meadow, and northern Depot Street.
- Bring currently nonconforming structures into conformance.
- Allow for mixed-use properties and live-work use by Special Permit.

Proposed additions are underlined.

Proposed deletions are ~~struck through~~.

9.9 Housatonic Village Center (HVC)

9.9.1 Purpose. The Housatonic Village Center (HVC) district is hereby established to encourage a mix of uses in, while preserving the density and pedestrian-oriented character of, the Housatonic Village Center, and to bring existing uses and structures into compliance with zoning requirements in order to facilitate a variety of business and housing opportunities.

9.9.2 Location. The HVC shall consist of the land shown on the 2013 Town of Great Barrington Assessors' Map 1 as Parcels 88, 116A, 117A, 118A, 119-135, 162-165A, 189-194, 197, 198, 202-204, 242, 243, 248, 252, 253, 253A, and 253B, and Assessors' Map 2 as Parcels 10, 18-20, and 53-60.

9.9.3 Permitted Uses. Permitted uses in the HVC are set forth in Section 3.1.4, the Table of Use Regulations.

9.9.4 Dimensional Requirements. Minimum setback and dimensional requirements shall be as set forth in Section 4.1.2, Schedule of Dimensional Requirements, except as follows:

1. Existing structures, or those for which valid building permits have been issued, as of May 4, 2015, with front, side, and rear setbacks that do not meet the requirements herein shall be permitted to maintain those setbacks.
2. Maximum front yard: New structures shall not be set back more than 10 feet or more than the average of the front yard setbacks of existing buildings on the abutting lots on either side, whichever is less.
3. No new nonconformity may be created except as may be permitted in accordance with Section 5 of this Zoning Bylaw.

9.9.5 Parking. The off-street parking requirements in Section 6.1 shall not apply in the HVC except as provided in this section. Off-street parking requirements in the HVC shall be as follows:

1. Only one space shall be required for any dwelling unit, whether in residential-only or in mixed-use buildings.
2. For permitted uses in existing buildings that are not substantially expanded, the existing parking spaces shall be retained, but no new spaces shall be required. A substantial expansion is defined, for the purpose of this section, as one which involves increasing the size of the footprint of a structure by more than 25% or 500 square feet, whichever is less.
3. For permitted uses in new buildings or existing buildings that are substantially expanded, as defined in this section, or for any building greater than 5,000 square feet gross floor area, parking is required as follows:
 - (a) one parking space shall be required for each dwelling unit;
 - (b) the parking requirements for business or industrial uses in Section 6.1.2 through 6.1.6 shall be calculated as follows: the sum of the required parking for each use multiplied by 0.5 with the product rounded down to the nearest whole number, plus handicapped parking as may be required by law or building code (Example: 3 spaces required for retail, 4 spaces required for offices: $(3 + 4) \times 0.5 = 3.5$, so 3 spaces, + 1 handicapped space, = 4 spaces are required); and
4. The parking requirements of this section may be waived if the SPGA grants a special permit pursuant to section 6.1.9.

9.10 Housatonic Village Overlay District (HVID)

9.10.1 Purpose. The Housatonic Village Overlay District (HVID) is hereby established as an overlay district to enable mixed uses, facilitate a variety of business and housing opportunities, and provide for the preservation of the character, design, and scale of the Housatonic Village Center.

9.10.2 Location. The HVID shall consist of the land shown on the 2013 Great Barrington Assessors' Map 1as Parcels 18, 19, 19A, 25, 65, 66, 72, 83, 84, 84A, 85-87, 89-109, 111, 113, and 115-118, and Assessors' Map 2as Parcels 2-9, and 11-17.

9.10.3 Applicability of Underlying District Requirements. All requirements pertaining to the underlying zoning district(s) shall continue to be in full force and effect, except to the extent that the provisions of this section modify, amend, or supersede such underlying requirements or provide for an alternative to such requirements.

9.10.4 Permitted Uses. All requirements pertaining to the underlying zoning district(s) shall continue to be in full force and effect, except that within the HVOD mixed-use and live-work uses may be permitted by special permit issued in accordance with this Section and Section 10.5. The requirements of Section 8.4 shall not apply to mixed-use establishments in the HVOD.

The Special Permit Granting Authority (SPGA) for the HVOD shall be the Planning Board.

9.10.5 Dimensional Requirements. Setback and dimensional requirements shall be as set forth in Section 4.1.2, Schedule of Dimensional Requirements, except as follows:

- Existing structures, or those for which valid building permits have been issued, as of May 4, 2015, with front, side, and rear setbacks that do not meet the requirements of herein shall be permitted to maintain those setbacks. These existing setbacks may not be decreased except in accordance with Section 5.0 of this Zoning Bylaw.

Amend Section 4.1.2, the Schedule of Dimensional Requirements by adding a new row for the Housatonic Village Center (HVC) district and footnote 12 as follows (additions are underlined):

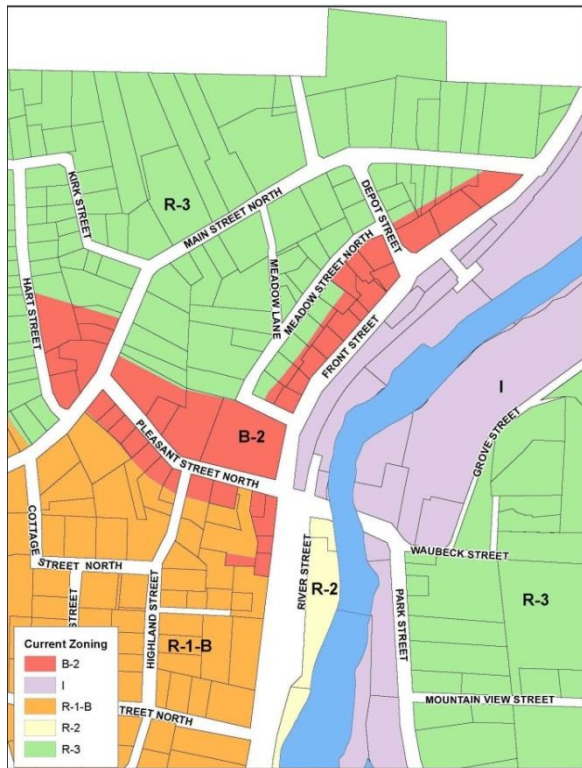
District	Minimum lot area (sq. ft.)	Width (ft.)	Minimum front yard ¹ (ft.)	Minimum side yard (ft.)	Minimum rear yard (ft.)	Maximum lot coverage by buildings (percent)	Stories ^{2, 6}	Height (ft.) ^{2, 6}
<u>HVC</u> ¹²	<u>5,000</u>	<u>50</u>	<u>5</u>	<u>5</u>	<u>10</u>	<u>75</u>	<u>2 ½</u>	<u>35</u>

^{12.} For existing structures in the HVC, minimum yard requirements shall be as set forth herein or those that exist as of May 4, 2015, whichever is the lesser. See also Section 9.9.4.

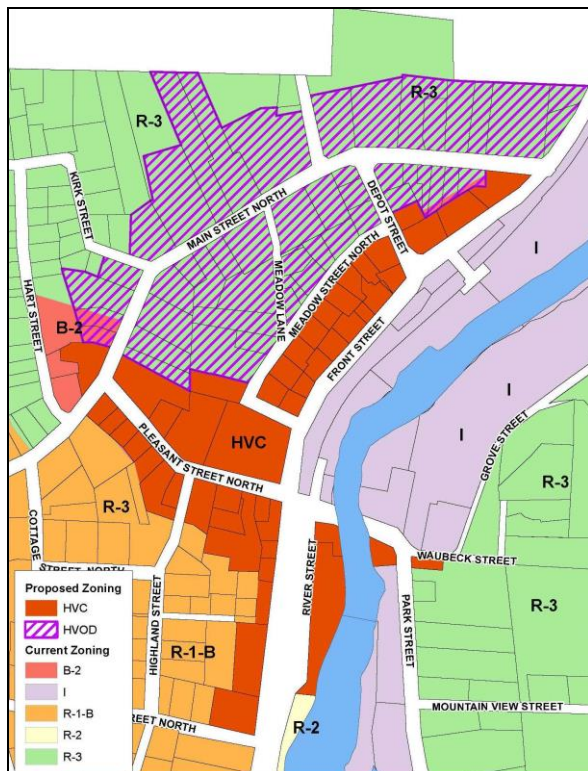
Amend Section 8.4.1 as follows (additions are underlined):

8.4.1 General: For mixed uses in the B, B2, I, and I2 Zones, all of the following requirements shall apply. For mixed uses in the B3 Zone, see Section 9.4. For mixed uses in the HVC and HVOD zones, see Sections 9.9 and 9.10 respectively.

Amend the Zoning Map accordingly (illustrated below):



Existing zoning in Housatonic Village



PROPOSED Housatonic Village Center zoning

Amend Section 3.1.4, the Table of Use Regulations by adding a column for the HVC zone as follows (additions are underlined):

Permitted Use		ZONING DISTRICT ^{1,4}													ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	<u>HVC</u>	B1	B2	B2A	B3	I	I2	
A. Residential uses															
(1)	Dwelling, Single family	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	SB	SB	
(2)	Dwelling, Two-family	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	<u>Y²</u>	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	See also <u>8.1, 8.7</u>
(3)	Dwelling, multifamily	N	N	N	SB	N	SB	<u>SB</u>	N	SB	SB	Y	SB ³	SB ³	See also <u>8.3</u>
(4)	Assisted living residence	PB	PB	PB	PB	PB	PB	<u>PB</u>	PB	PB	PB	PB	PB	PB	See also <u>8.8</u>
(5)	Live/work units	N	N	N	N	N	N	<u>Y</u>	N	N	N	Y	Y	Y	See also <u>9.4, 9.6</u>
(6)	Lodging house or tourist home for transient guests	SB	SB	SB	SB	SB	SB	<u>SB</u>	N	SB	SB	SB	SB	SB	See also <u>7.16</u>
(7)	Mixed use	N	N	N	N	N	SB	<u>Y</u>	SB	SB	SB	SB	Y	Y	See also <u>8.4, 9.6</u>
(8)	Open Space Residential Development	N	N	PB	N	PB	N	<u>N</u>	N	N	N	N	N	N	See also <u>8.7</u>
(9)	Planned unit residential development (PURD)	SB	SB	SB	SB	SB	SB	<u>N</u>	N	SB	SB	SB	N	N	See also <u>8.5</u>
(10)	Publicly Financed Nonprofit Age-Restricted Housing	N	N	N	SB	N	SB	<u>SB</u>	N	SB	SB	SB	N	N	See also <u>8.9</u>
(11)	Trailer or mobile home	SB	SB	SB	SB	SB	SB	<u>N</u>	SB	SB	SB	N	SB	SB	See also <u>8.6</u>
B. Community, educational, & recreational uses															
(1)	Camping facilities	N	N	SB	N	SB	N	<u>N</u>	N	N	SB	N	N	N	See also <u>7.4</u>
(2)	Cemeteries	N	N	SB	N	SB	N	<u>N</u>	N	N	N	N	N	N	
(3)	Child care center	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
(4)	Clubhouses or fraternal lodges not conducted for profit	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	SB	
(5)	Commercial amusements, fairgrounds	N	N	N	N	N	SB	<u>SB</u>	N	SB	N	N	SB	SB	
(6)	Community center operated by a municipal or private not-for-profit organization	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	SB	
(7)	Educational use, exempt	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
(8)	Educational use, nonexempt	N	N	SB	N	SB	SB	<u>SB</u>	N	SB	SB	SB	SB	SB	See also <u>7.6</u>
(9)	Golf or country clubs	N	N	SB	N	SB	N	<u>N</u>	N	N	SB	N	SB	SB	
(10)	Hospitals, sanitariums, nursing or convalescent homes or philanthropic institutions, provided that no principal building so used shall be within 50 feet of any lot line	N	N	SB	N	SB	SB	<u>SB</u>	N	SB	SB	SB	SB	SB	

Permitted Use		ZONING DISTRICT ^{1,4}													ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	<u>HVC</u>	B1	B2	B2A	B3	I	I2	
(11)	Municipal parks and playgrounds, including recreational buildings therein	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
(12)	Public libraries, public museums, municipal buildings and facilities	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
(13)	Riding stables on less than 5 acres, provided that any buildings or structures are set back not less than 50 feet from any lot line	N	N	SB	N	SB	SB	<u>N</u>	N	SB	SB	N	SB	SB	
(14)	Ski tows, provided that any buildings or structures are set back not less than 50 feet from any lot line	N	N	SB	N	SB	SB	<u>N</u>	N	SB	N	N	SB	SB	
(15)	Summer camps operated for children on sites not less than 10 acres in area	N	N	SB	N	SB	N	<u>N</u>	N	N	SB	N	N	N	
(16)	Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
C. Office, retail and consumer service establishments															
(1)	Banks and other financial institutions	N	N	N	N	N	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
(2)	Fast-food eating establishments	N	N	N	N	N	SB	<u>SB</u>	N	SB	N	N	N	N	See also <u>7.7</u> , <u>7.9</u>
(3)	Fuel storage and sales, excluding motor vehicle fuel stations	N	N	N	N	N	SB	<u>N</u>	N	SB	N	N	SB	SB	
(4)	Garages, public	N	N	N	N	N	SB	<u>SB</u>	N	SB	N	SB	SB	SB	See also <u>9.7</u>
(5)	Garden centers, including associated landscaping services	N	N	N	N	N	Y	<u>Y</u>	N	Y	Y	Y	Y	Y	
(6)	General service establishment	N	N	N	N	N	SB	<u>Y</u>	N	Y	N	SB	Y	Y	
(7)	Greenhouses, commercial, on less than 5 acres, provided that no heating plant for a greenhouse shall be within 50 feet from any side or rear lot line	N	N	Y	N	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
(8)	Hotels	N	N	N	N	N	SB	<u>SB</u>	N	SB	SB	SB	SB	SB	See also <u>7.10</u>
(9)	Institutional administrative offices or planned professional office developments or research centers, provided that in R2 & R4 Districts such uses are subject to special requirements	N	N	SB	N	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	SB	See also <u>7.13</u>
(10)	Kennel	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	SB	See also <u>7.17</u>
(11)	Large-scale commercial development	N	N	N	N	N	Y	<u>SB</u>	SB	SB	N	SB	SB	SB	See also <u>7.9</u> , <u>7.12</u> , <u>9.6</u>
(12)	Lumberyards	N	N	N	N	N	SB	<u>N</u>	N	SB	N	SB	SB	SB	

Permitted Use		ZONING DISTRICT ^{1,4}													ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B3	I	I2	
(13)	Motels or overnight cabins	N	N	N	N	N	SB	<u>SB</u>	N	SB	N	SB	SB	SB	See also <u>7.10</u>
(14)	Motor vehicle fuel station	N	N	N	N	N	SB	<u>SB</u>	N	SB	N	N	SB	SB	See also <u>7.8</u>
(15)	Motor vehicle general and body repair	N	N	N	N	N	SB	<u>SB</u>	N	SB	N	N	SB	SB	
(16)	Motor vehicle sales rooms, including used car lots	N	N	N	N	N	SB	<u>SB</u>	N	SB	N	N	SB	SB	
(17)	Offices	N	N	N	N	N	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
(18)	Parking lots, commercial	N	N	N	N	N	SB	<u>SB</u>	N	SB	N	SB	SB	SB	
(19)	Personal service establishment	N	N	N	N	N	Y	<u>Y</u>	Y	Y	N	Y	Y	Y	
(20)	Professional offices	SB	SB	SB	SB	SB	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	See also <u>7.14</u>
(21)	Registered Marijuana Dispensary	N	N	N	N	N	N	<u>N</u>	N	Y	N	Y	Y	Y	See also <u>7.18</u>
(22)	Restaurants and other places for serving food, other than fast-food eating establishments	N	N	N	N	N	Y	<u>SB</u> ⁴	SB	SB	SB	SB	SB	SB	See also <u>7.3</u> See also footnote 4, below.
(23)	Retail stores or centers and/or wholesale sales and service with total aggregate floor area less than or equal to 20,000 square feet	N	N	N	N	N	Y	<u>Y</u> ⁵	Y	Y	SB	Y	Y	Y	See also <u>7.3</u> See also footnote 5, below.
(24)	Retail stores and shops for custom work or making of articles sold on the premises	N	N	N	N	N	Y	<u>Y</u>	SB	Y	SB	Y	Y	Y	
D. Agricultural uses															
(1)	Agriculture, as defined by MGL c. 40A, s. 3, on tracts larger than 5 acres, including sales of products raised on premises on stands or structures erected in accordance with front yard setback requirements, provided that soil fertilizer shall be stored not less than 100 feet from any lot line, unless kept in air-tight containers	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
E. Utilities, communication and transportation															
(1)	Aviation field, public or private	N	N	N	N	SB	N	<u>N</u>	N	N	N	N	N	N	See also <u>7.2</u>
(2)	Essential services	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
(3)	Freight terminals, truck or rail	N	N	N	N	N	SB	<u>N</u>	N	SB	N	N	SB	SB	
(4)	Low-power FM broadcast radio licensed by FCC														See also <u>7.15</u>
(a)	Studio	N	N	N	N	N	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
(b)	Antenna	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	SB	
(5)	Passenger stations	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	SB	
(6)	Personal wireless tower or														See also <u>9.3</u>

Permitted Use		ZONING DISTRICT ^{1,4}													ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	<u>HVC</u>	B1	B2	B2A	B3	I	I2	
	structure as a principal (or accessory) use in the Overlay District, and the initial and any subsequent personal wireless service facility located upon that tower or structure (see Section 9.3 of this Bylaw)														
F. Industrial, manufacturing and storage uses															
(1)	Contractor's and Landscaper's yards	N	N	N	N	N	N	<u>N</u>	N	N	N	N	Y	Y	
(2)	Gravel, loam, sand and stone removal for commercial purposes	N	N	SB	N	SB	SB	<u>N</u>	N	SB	N	N	SB	SB	See also <u>7.5</u>
(3)	Light manufacturing	N	N	N	N	N	N	<u>SB</u>	N	N	N	SB	Y	Y	See also <u>6.4</u>
(4)	Saw (log) mill and manufacture of forest products, provided that any saw (log) mill shall be located at least 200 feet from any lot line, and no piles of sawdust or other refuse shall be maintained within 100 feet of any lot line	N	N	N	N	N	N	<u>N</u>	N	N	N	N	SB	SB	
G Accessory uses															
(1)	Any structure or use customarily incidental and subordinate to the principal permitted use in the district	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	See also <u>3.2</u> , <u>7.1</u>
(2)	Home occupation (low impact)	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	See also <u>3.3</u>
(3)	Adult day care	PB	PB	PB	PB	PB	PB	<u>PB</u>	PB	PB	PB	PB	PB	PB	See also <u>8.8</u>
(4)	An accessory use to a by-right use, whether or not on the same parcel, which is necessary in conjunction with scientific research or development or related production, provided that the Board of Selectmen finds that the proposed accessory use does not substantially derogate from the public good	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	SB	See also <u>3.2</u>
(5)	Drive-up or drive-through facilities	N	N	N	N	N	SB	<u>N</u>	SB	SB	SB	SB	SB	SB	See also <u>7.9</u> , <u>9.6</u>
(6)	Family day care (small)	Y	Y	Y	Y	Y	SB	<u>Y</u>	SB	SB	SB	SB	SB	SB	
(7)	Family day care (large)	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	SB	
(8)	Home occupation (moderate impact)	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	SB	See also <u>3.3</u>
(9)	Incidental stripping of sod or removal of topsoil, gravel, loam, sand, stone or other earth materials	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
(10)	Keeping of horses, for	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	

Permitted Use		ZONING DISTRICT ^{1,4}													ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B3	I	I2	
	whatever purpose, subject to Board of Health regulations and only on lots of 5 acres or more														
(11)	Private garage or off-street parking for private automobiles registered at the premises	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	Y	
(12)	Swimming pools, inground or aboveground. Pool must be 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.	Y	Y	Y	Y	Y	SB	<u>Y</u>	SB	SB	SB	SB	SB	SB	
(13)	Wind Energy Generator	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	SB	

⁴ NOTE: Restaurants accommodating up to 16 seats are permitted by right in the HVC. Larger restaurants may be permitted by Special Permit.

⁵ NOTE: In the B1 and HVC zones, wholesale sales and service facilities as well as retail stores are permitted by right up to 6,500 gross square feet (GSF). Such uses may also be permitted by special permit from the Select Board up to 10,000 GSF in the B1 and HVC zones. Such uses greater than 10,000 GSF are prohibited in the B1 zone. Retail stores up to 20,000 GSF in the HVC may be allowed by special permit from the Select Board, however, if the use is proposed as a component of a project that redevelops or reuses historic structures. Said structures are those listed on the State or National Register of Historic Places, a designated property in a Local Historic District, or determined in writing by the Great Barrington Historical Commission as historically, culturally, or architecturally significant to the Town.

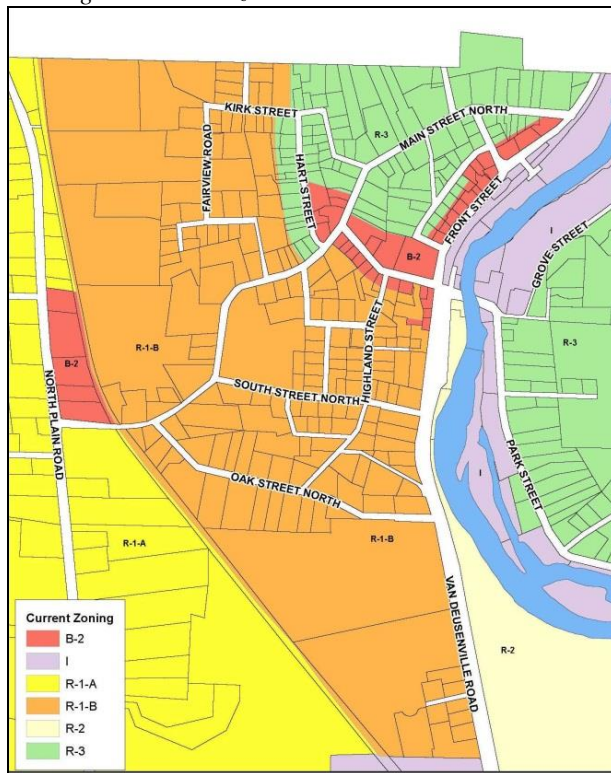
Recommended by the Selectboard

ARTICLE 19:

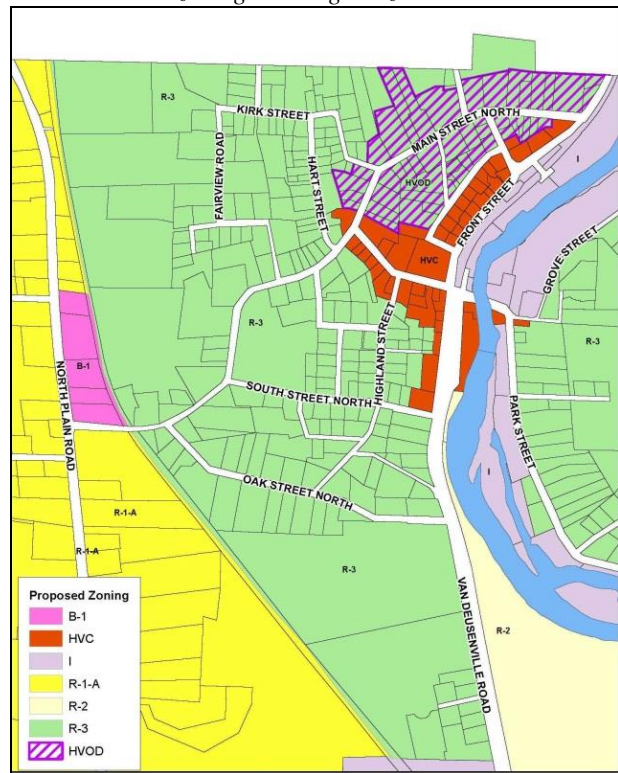
To see if the Town will vote to amend the Zoning Map by changing the designation of the existing R1B zone in Housatonic to the R3 zone, and re-zoning the property shown on 2013 Assessors' Map 1 as parcels 62, 82, 83, 84, 161, and 162A from B2 to R3, as illustrated on the following maps, which reflect the applicable Assessors' parcels, or to take any other action relative thereto.

Purpose of the amendments: Replacing the R1B residential zone in Housatonic with the R3 residential zone, and re-zoning remaining B2 areas to R3, will eliminate a handful of dimensional nonconformities, and it will change the permitted uses slightly (e.g., multifamily is by special permit in R3, but not allowed in R1B). The slightly smaller minimum lot size (5,000 versus 6,500) is not expected to generate the potential for many new lots, since most of the area is already developed. The few large interior lots lack the frontage required for further lot divisions.

Existing R1B and R3 zones in Housatonic



PROPOSED rezoning showing R3 zone in Housatonic



Recommended by the Selectboard

ARTICLE 20:

To see if the Town will vote to amend the B1 column of Section 3.1.4 (Table of Use Regulations) and the B1 row of Section 4.1.2 (Schedule of Dimensional Requirements) of the Zoning Bylaw as set forth below, and to amend the Zoning Map by changing the zoning designation of the land on North Plain Road shown on 2013 Assessors' Map 26 as Parcels 10-18 from B2 to B1, and by changing the zoning designation of the land on Park Street/Route 183 shown on 2013 Assessors' Map 6 as Parcels 25, 26, 37, 38, and 39 from B2 to B1, as illustrated on the following maps, or to take any other action relative thereto:

Purpose of the amendments: The existing B1 zone regulations are almost a mirror image of those for the B2 zone, a General Business zone which favors medium-large scale retail and commercial uses, similar to the size and density of what currently exists on Stockbridge Road, and restricts residential uses to large lots. These existing regulations may be appropriate for Stockbridge Road, but do not foster a "neighborhood business" area that was originally intended to allow small-scale neighborhood centers with services for local residents. Worse, the existing regulations encourage medium and large scale box retailers that would be inappropriate in these areas. These amendments will address these issues, and will make the B1 zone a true neighborhood business zone that incorporates a variety of residential uses. The amendments would limit the size of potential new retail uses to 6,500 square feet, which is less than what is typically required by box/chain retailers, and will prohibit retailers of more than 10,000 square feet, which would be incompatible with a neighborhood zone. Retail uses between 6,500 and 10,000 square feet may be approved by Special Permit.

There is only one B1 location currently in town; it is in the Risingdale area. It was originally intended to cover the Risingdale Café. However, when the zoning and tax maps were digitized, a mistake was made that appears to place the Café in the R1B zone. The proposed map amendment will fix that mistake, and will also extend the zone somewhat to include several similar parcels on Park St./ Rte. 183.

Another proposed map amendment will rezone the Housatonic North Plain Road area from B2 to B1. The B2 zone in this location makes several existing residential lots nonconforming. It also allows retail stores of up to 20,000 square feet, the size of a medium-large box retailer. This proposed map amendment will include within the B1 zone the existing residences and the existing retail business, Country Carpets, all of which will continue to be allowed.

Proposed Amendments:

Proposed additions are underlined.
Proposed deletions are ~~struck through~~

Amend the B1 column of Section 3.1.4 (Table of Use Regulations) as follows:

change row A(3), Dwelling, multifamily, from N to SB;
change row A(6), Lodging house or tourist home..., from N to SB;
change row C(11), Large scale commercial development, from SB to N;
change row C(23), Retail stores or centers and/or wholesale sales..., from Y to Y⁵ thereby adding new footnote number 5, which will read as follows:

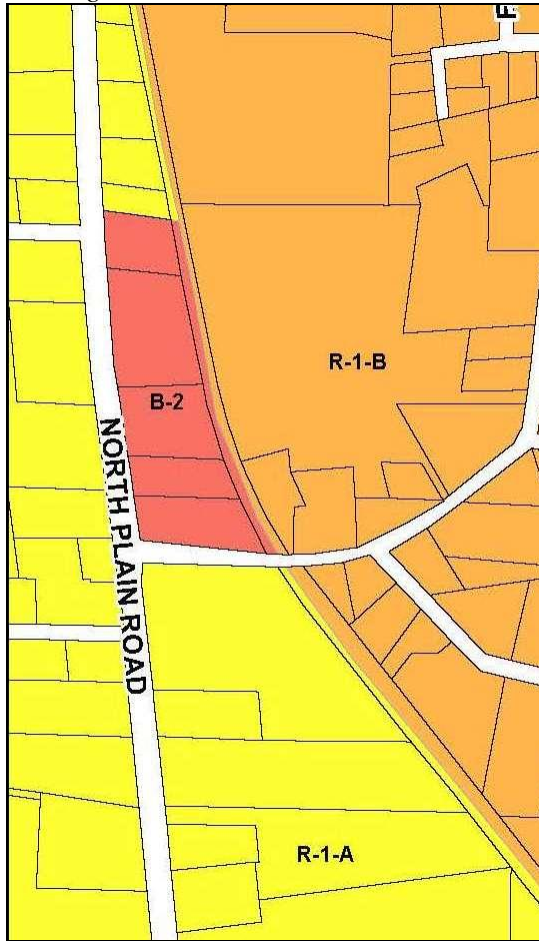
⁵ NOTE: In the B1 and HVC zones, wholesale sales and service facilities as well as retail stores are permitted by right up to 6,500 gross square feet (GSF). Such uses may also be permitted by special permit from the Select Board up to 10,000 GSF in the B1 and HVC zones. Such uses greater than 10,000 GSF are prohibited in the B1 zone. Retail stores up to 20,000 GSF in the HVC zone may be allowed by special permit from the Select Board, however, if the use is proposed as a component of a project that redevelops or reuses historic structures. Said structures are those listed on the State or National Register of Historic Places, a designated property in a Local Historic District, or determined in writing by the Great Barrington Historical Commission as historically, culturally, or architecturally significant to the Town.

Amend the B1 row of Section 4.1.2 (Schedule of Dimensional Requirements) as follows:

District	Minimum lot area (sq. ft.)	Width (ft.)	Minimum front yard ¹ (ft.)	Minimum side yard (ft.)	Minimum rear yard (ft.)	Maximum lot coverage by buildings (percent)	Stories ^{2, 6}	Height (ft.) ^{2, 6}
B1	Dwellings: 10,000 <u>5,000</u>	400 <u>50</u>	25	20 <u>10</u>	30	25 <u>40</u>	2 ½	35
	Other permitted uses: 5,000	50	25	10	10	75	3	40

Amend the Zoning Map by changing the zoning designation of the land on North Plain Road shown on 2013 Assessors' Map 26 as Parcels 10-18 from B2 to B1, and by changing the zoning designation of the land on Park Street/Route 183 shown on 2013 Assessors' Map 6 as Parcels 25, 26, 37, 38, and 39 from B2 to B1, as illustrated on the following maps:

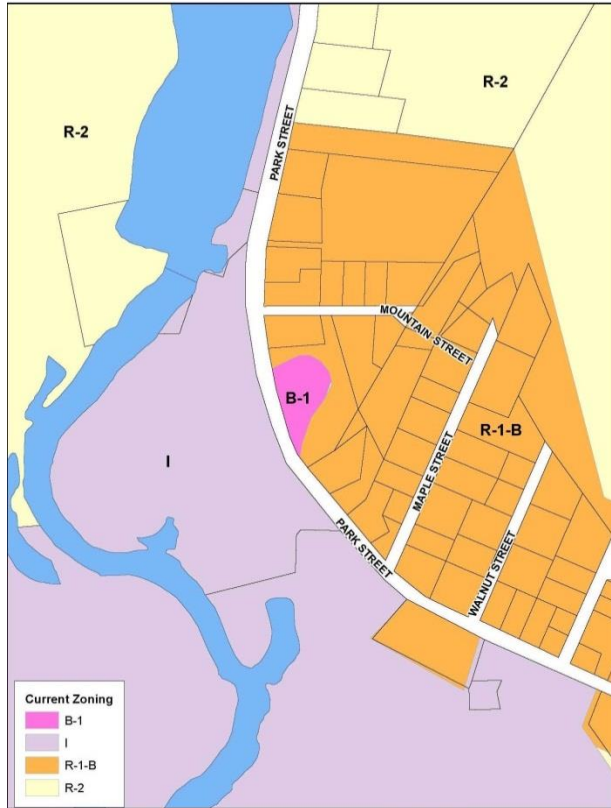
Existing B2 on North Plain Road



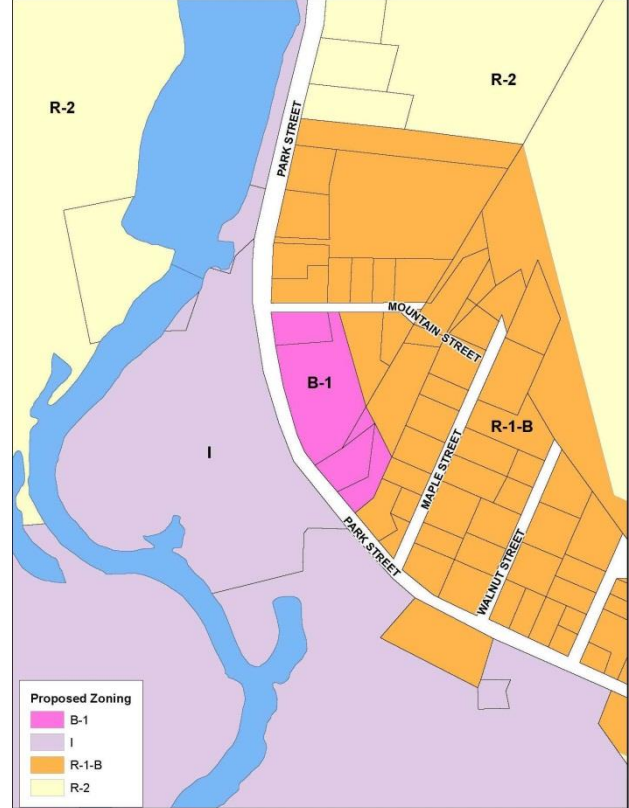
PROPOSED B1 on North Plain Road



Existing B1 zone in Risingdale



PROPOSED B1 zone in Risingdale



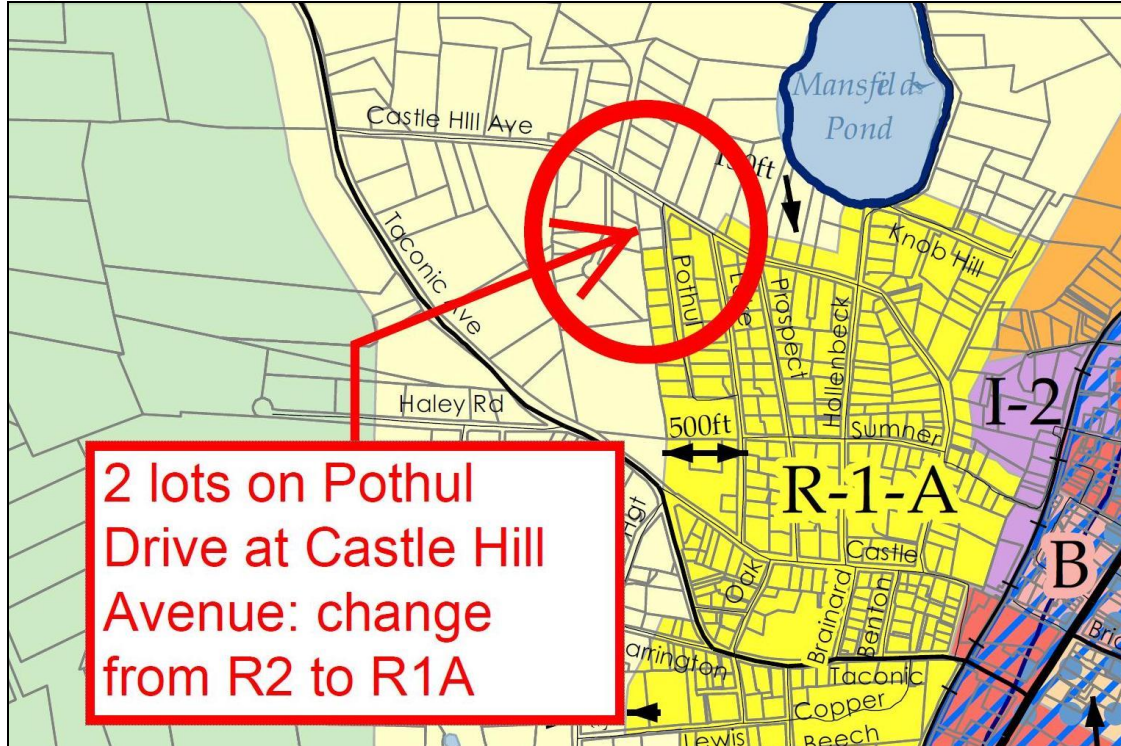
Recommended by the Selectboard

ARTICLE 21:

To see if the Town will vote to amend the Zoning Map by rezoning the land shown on 2013 Assessors' Map 13 as Parcels 1 and 26E from R2 to R1A, as illustrated on the following map, or to take any other action relative thereto.

Purpose of the amendments: By amending the zoning map to change Assessors' Map 13, Parcels 1 and 26E from R2 to R1A, the parcels and the structures will be brought into conformance and make them subject to similar regulations as the other lots on Pothul Drive.

Proposed rezoning on Pothul Drive at Castle Hill Avenue



Recommended by the Selectboard

ARTICLE 22:

To see if the Town will vote to amend Sections 3.2, 4.2, 8.2, and 11.0 of the Zoning Bylaw as follows, or to take any other action relative thereto:

Purpose of the amendments: Currently, accessory structures or uses must be located on the same lot as the principal use. In some instances, this has proven to be unnecessarily restrictive. These amendments will allow an accessory structure or use to be located on an abutting lot in common ownership with the lot of the principal structure. Secondly, these amendments will allow accessory structures to be taller than the existing 15 foot height limit, thereby allowing for the possibility of a contemporary carriage barn, similar to those that remain such an integral part of our architectural history in this town. In addition, the proposed two story height limit increases the likelihood that new, affordable dwelling units will be created. Each of these amendments is designed to encourage, not discourage, a property owner's investment in their property. Accessory structures taller than 15 feet will need to meet all setback requirements for the zoning district.

Proposed additions are underlined.
Proposed deletions are struck through.

3.2 ACCESSORY USES

3.2.1 General. A related minor use or structure which is either necessary to the operation or enjoyment of a lawful principal use, or appropriate, customarily incidental and subordinate to any such use, shall be permitted as an accessory use. Such use shall be permitted only on the same lot with the building to which it is accessory. Structures accessory to principal residential uses shall be permitted on the same lot or on an abutting lot in common ownership. Such uses ~~and~~ shall be subject to the limitations set forth in this Bylaw.

3.2.2. Restrictions.

1. No use shall be permitted in any district as an accessory use which increases the number of dwelling units on any lot beyond that which is permitted in that district or which constitutes in effect a conversion of a permitted use to one not permitted in that district, unless a dwelling unit is permitted as an Accessory Dwelling Unit in accordance with 8.2.
2. No accessory building shall be used as a dwelling, unless permitted in accordance with 8.2, or except in an Industrial District for the accommodation of a night watchman or janitor.
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 15 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.

4.2.8 Exceptions to Height Requirements.

1. Dwellings and accessory buildings on lots of five acres or more may be three stories or 40 feet in height.

8.2.3 Requirements.

6. An ADU may be created within a new or a previously existing single-family or two-family residential structure. ~~An ADU may be created within a new or previously existing accessory structure in the R2 and R4 zones, but in other zones only in accessory structures that were lawfully existing or lawfully begun prior to May 2, 2011.~~

SECTION 11: DEFINITIONS

ACCESSORY BUILDING: A subordinate building, the use of which is customarily incidental to that of a principal building and located on the same lot, or an abutting lot in common ownership, therewith.

ACCESSORY USE: A use customarily incidental and subordinate to the principal use and located on the same lot, or an abutting lot in common ownership, therewith.

Recommended by the Selectboard

ARTICLE 23:

To see if the Town will vote to approve, and authorize the Select Board to enter into, a Tax Agreement pursuant to M.G.L. Chapter 59, section 38H(b), and Chapter 164, Section 1, and/or any other enabling authority, with Housatonic Solar 1, LLC or any successor lessee/operator for personal property taxes associated with the 2.5MW solar photovoltaic facility to be located on property at 295 Park St. in the Village of Housatonic and shown on 2013 Assessors' Map 7 as Parcel 30, for a term of up to twenty (20) years, on such terms and conditions as the Select Board deems to be in the best interest of the Town, and to take any and all actions as may be necessary or convenient to accomplish the purpose of this article; or to take any other action relative thereto.

Recommended by the Selectboard

ARTICLE 24:

Resolution in Support of Fossil Fuel Divestment and to Address the Climate Crisis

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

WHEREAS, man-made greenhouse gases in the atmosphere have contributed significantly to global warming, glacial melt, sea level rise and climate changes, and all over the globe extremes in weather are being experienced with increased frequency in the form of droughts, heavy rainfall, record high temperatures, and dangerous storms, resulting in wildfires, floods, crop failures, destruction of homes and communities, and loss of life; and

WHEREAS, there is a limit to the amount of carbon and other greenhouse gases the atmosphere can contain beyond which life on the planet as we know it will be severely impacted and ultimately unsustainable; and

WHEREAS, the fossil fuel industry is reaping enormous profits and exercising great power over policymakers and legislators by means of large contributions to the campaign chests of friendly politicians in exchange for favorable legislation and massive government subsidies--at the expense of support for clean, renewable, and sustainable energy; and

WHEREAS, investments in fossil fuel companies could prove highly risky and volatile given that 80% of their proven reserves could become "stranded" and unusable assets if governments act to protect a habitable climate;

WHEREAS, divestment has proven to be an effective strategy for stigmatizing unethical industries and institutions throughout our state's history. Massachusetts was the first state to divest from South Africa in 1982 and the first state to divest all state pension funds from tobacco companies in 1997. Massachusetts should continue this legacy of socially conscious investing;

WHEREAS, every household in Great Barrington, motivated by a sense of responsibility to protect the planet and guarantee a future for the next generation and beyond, has the ability to decrease its contribution of greenhouse gases (its “carbon footprint”) by taking relatively simple steps to decrease its use of fossil fuel; and

WHEREAS, the town of Great Barrington has chosen to become a GREEN COMMUNITY and under our own Energy Committee, tasked by the Board of Selectmen, significant progress has been achieved in making our municipal buildings more energy efficient;

THEREFORE, be it resolved that the citizens of Great Barrington commit ourselves to meeting our individual and collective responsibility in the face of the increasing climate crisis by adopting energy efficiency and conservation practices; and

FURTHER, we urge our elected state officials to direct the managers of the State Pension Funds to divest the Funds of holdings in fossil fuel industries and to invest, instead, in alternative sustainable energy companies, a step consistent with the Commonwealth’s commitment to clean, renewable, green energy that does not further burden our fragile atmosphere and threaten our planet; and

The Town Clerk is requested to send copies of this Resolution to Governor Charlie Baker, State Treasurer Deborah B. Goldberg, State Senator Benjamin B. Downing, and State Representative William Smitty Pignatelli; or to take any other action relative thereto.

Recommended by the Selectboard

ARTICLE 25: (by petition)

We, the undersigned, respectfully request the Berkshire Hills Regional School District be required to report in the Great Barrington Annual Town Report all payments of \$5,001.00 or greater.

ARTICLE 26: (by petition)

We, the undersigned, respectfully request that the Berkshire Hills Regional School budget be decided by the majority of the combined votes cast by the Great Barrington, Stockbridge and West Stockbridge Annual Town Meetings.

ARTICLE 27: (by petition)

We the independent citizens of the Annual Town Meeting of 2015 of the Town of Great Barrington, who are registered voters in this Town, which includes Great Barrington and Housatonic, do hereby signing this petition assert that we desire that this issue be brought before the Annual Town Meeting of Great Barrington to be considered, discussed, and acted upon by all the registered voter thereby, whose motley meeting together comprise Annual Town Meeting 2015 of the Town of Great Barrington, Massachusetts.

To see if the Annual Town Meeting will approve, amend, or take any other action regarding the following:

In the Town of Great Barrington, Massachusetts, homeless persons shall be considered a protected class on an equal basis with all other protected classes that may be protected under any State or Federal Law.

ARTICLE 28: (by petition)

That the Great Barrington Bylaws be amended to add the following: Every Great Barrington committee or board, whether appointed or elected, shall place on their agenda of public meetings an item for Citizen Speak time.

ARTICLE 29: (by petition)

We the undersigned registered voters of the Town of Great Barrington request the following article be placed on the Warrant for the Annual Town Meeting on May 4, 2015:

Transparency on Finances

We ask the Great Barrington Selectboard and the Great Barrington members of the Berkshire Hills Regional School District's School Committee, in recognition of the will of the voters in 2013 and 2014 concerning capital expenditures for Monument Mountain Regional High School, to support leading-edge education with fair-share taxation by taking the following steps in 2015:

1. Increase financial transparency and openness, cooperation, and communication with voters and the community at large by ensuring that financial management and strategic planning reports are provided on a timely and regular basis to BHRSD member towns' Finance Committees and to any joint Finance Committee of the BHRSD's towns, and made readily available to members of the public;
2. Create a system, in cooperation with the Great Barrington Finance Committee and other Finance Committees, for accurate measurement of operating and capital costs per student for lower, middle and high schools; and
3. Demonstrate responsiveness to voter concerns by (1) tackling only small-scale urgent repairs at Monument Mountain Regional High School before presenting a strategic to Master Plan for BHRSD, and (2) encouraging and enabling local and regional contractors to bid on those repair projects.

ARTICLE 30: (by petition)

We the undersigned registered voters of the Town of Great Barrington request the following article be placed on the Warrant for the Annual Town Meeting on May 4, 2015:

Equity among Towns Sending Students to Schools in Berkshire Hills Regional School District

We ask the Great Barrington Selectboard and the Berkshire Hills Regional School District's School Committee, in recognition of the will of the voters in 2013 and 2014 concerning capital expenditures for Monument Mountain Regional High School, to support leading-edge education with fair-share taxation by taking the following steps in 2015:

1. Expand talks with Selectboards and/or School Committees from “Tuition-In” towns in order to gain their full financial commitment (to pay the same amount per student as district towns pay for high school students with a minimum dollar commitment over the following 15 years) before making further long-term or building plans for the Berkshire Hills Regional School District that would accommodate their student populations;
2. Support efforts to increase “Choice-In” payments mandated by the state and preparing an analysis of the effect over five years of ceasing to accept “Choice-In” students, including reductions in operating expenses, in order to decide by the end of the coming fiscal year whether to set new limits on or to cease accepting new “Choice-In” students.
3. Schedule regular meetings with representatives from the other two District towns within the first quarter of the next fiscal year for the purpose of changing the assessment method for the three towns and create equity among Berkshire Hills Regional School District. Representatives should include Selectboards, Finance Committee members, and members of the public, and should include a professional facilitator.

ARTICLE 31: (by petition)

We the undersigned registered voters of the Town of Great Barrington request the following article be placed on the Warrant for the Annual Town Meeting on May 4, 2015:

Proactive Planning

We ask the Great Barrington Selectboard and the Berkshire Hills Regional School District’s School Committee, in recognition of the will of the voters in 2013 and 2014 concerning capital expenditures for Monument Mountain Regional High School, to support leading-edge education with fair-share taxation by taking the following steps in 2015:

1. Involve the broader community, including the group GB21, in developing a strategic “Master Plan” for the Berkshire Hills Regional School District;
2. Make short-term and long-term academic and financial goals, (including research on other effective educational and financial models) the focus of the planning process; and
3. Include student population forecasts, operating and capital costs and funding sources (particularly those outside the District), and short- and long-term options for cooperation, or consolidation, with neighboring school districts; while
4. Take active steps to improve communication with and between the BHRSD, District Towns’ leaders and community groups, taxpayers, and residents.

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 13th day of April, 2015.

Deborah Phillips

Sean Stanton

Stephen C. Bannon

Daniel Bailly

Edward Abrahams

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, seven days, at least before the time of holding the within mentioned Town Meeting.

WITNESS my hand and seal this 13th day of April, 2015.

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