

Kevin O' Donnell
Town Manager

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



Town Hall, 334 Main Street
Great Barrington, MA 01230

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

TOWN OF GREAT BARRINGTON MASSACHUSETTS

OFFICE OF THE TOWN MANAGER

SELECTMEN'S MEETING

MONDAY, JANUARY 28, 2013, 7:00 PM

TOWN HALL, 334 MAIN STREET

ORDER OF AGENDA

1. CALL TO ORDER:

2. APPROVAL OF MINUTES:

January 14, 2013 Regular Meeting.

3. SELECTMEN'S ANNOUNCEMENTS/STATEMENTS:

A. DISCUSSION OF UPCOMING MEETING CALENDAR.

B. GENERAL COMMENTS BY THE BOARD.

4. TOWN MANAGER'S REPORT:

A. BOS – SIGNING RENEWAL OF BOND ANTICIPATION NOTES (BANS).

B. 8TH EXTENSION TO THE PURCHASE AND SALE AGREEMENT FOR THE CASTLE STREET FIRE STATION.

5. CITIZEN SPEAK TIME:

6. LICENSES OR PERMITS:

A. GREAT BARRINGTON FISH AND GAME FOR ONE DAY BEER AND WINE LICENSE FOR FEBRUARY 9, 2013 FROM 11:00AM – 7:00 PM AT 338 LONG POND ROAD. (DISCUSSION/VOTE)

B. GREAT BARRINGTON FISH AND GAME FOR SEVEN (7) ONE DAY BEER AND WINE LICENSES (EVERY SUNDAY FROM FEBRUARY 10, 2013 – MARCH 24, 2013) FROM 11:00AM – 7:00 PM AT 338 LONG POND ROAD. (DISCUSSION/VOTE)

7. NEW BUSINESS:

A. BOS - APPOINTMENT OF MEMBER TO THE AGRICULTURAL COMMISSION. (DISCUSSION/VOTE)

B. BOS - RESOLUTION CREATING THE TOWN MANAGER SCREENING COMMITTEE. - APPOINTMENT OF MEMBERS TO THE TOWN MANAGER SCREENING COMMITTEE. (DISCUSSION/VOTE)

C. RECOMMENDATION TO THE ZONING BOARD OF APPEALS ON A SPECIAL PERMIT APPLICATION OF JAN WOJCIK AND RUBY CHANG FOR PROPERTY AT 1 ROGER ROAD TO BUILD A CARPORT. THE PROPERTY RECEIVED A SPECIAL PERMIT IN 2008 TO REPLACE AN EXISTING NONCONFORMING DWELLING. (DISCUSSION/VOTE)

8. OLD BUSINESS:

A. CONTINUATION RE: RESOLUTION – LEGISLATION TO REGULATE AND BAN MILITARY STYLE WEAPONS AND ASSOCIATED AMMUNITION. (DISCUSSION/VOTE)

B. HOUSATONIC SCHOOL/TIM GELLER – DISCUSSION.

9. OLD BUSINESS:

10. SELECTMEN'S TIME:

11. MEDIA TIME:

12. ADJOURNMENT:

NEXT SELECTMEN'S REGULAR MEETING: MONDAY, FEBRUARY 11, 2013 AT 7:00 P.M.

A handwritten signature in cursive script that reads "Kevin O'Donnell" followed by a stylized flourish.

Kevin O'Donnell, Town Manager

PURSUANT TO MGL. CHAPTER 30A, SECTION 20 (e) (f), MEETINGS OF THE TOWN OF GREAT BARRINGTON SELECTMEN ARE REGULARLY RECORDED AND VIDEOTAPED. ANY MEMBER OF THE PUBLIC WISHING TO SPEAK AT THE MEETING MUST RECEIVE PERMISSION OF THE CHAIR.

THE LISTING OF AGENDA ITEMS ARE THOSE REASONABLY ANTICIPATED BY THE CHAIR WHICH MAY BE DISCUSSED AT THE MEETING. NOT ALL ITEMS LISTED MAY IN FACT BE DISCUSSED AND OTHER ITEMS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

MEETINGS IN FEBRUARY

(Scheduled as of 1/24/13)

- Wednesday, January 30th at 1 PM Council on Aging- Claire Teague Senior Center
- Wednesday, January 30th at 4 PM Agricultural Commission- Berkshire Grown Office, 314 Main Street, GB
- Wednesday, January 30th at 7PM BOS/Planning Board/Energy Committee/Agricultural Commission “Sustainability Meeting” - GB Fire Station
- Monday, February 4th at 7 PM Historical Commission- Town Hall
- Tuesday, February 5th at 5:30 PM Republican Town Committee- Town Hall
- Tuesday, February 5th at 7 PM Town Charter Review Committee- GB Fire Station
- Thursday, February 7th at 7:30 PM Board of Health- Town Hall
- Monday, February 11th at 7 PM Board of Selectmen- Town Hall
- Tuesday, February 12th at 6 PM Board of Selectmen & Finance Committee Joint Budget Meeting- GB Fire Station
- Wednesday, February 13th at 5:45 PM Energy Committee- Town Hall
- Wednesday, February 13th at 6 PM Board of Selectmen & Finance Committee Joint Budget Meeting- GB Fire Station
- Thursday, February 14th at 5:30 PM Library Trustees- Mason Library, 231 Main Street
- Thursday, February 14th at 7 PM Planning Board- Town Hall
- Tuesday, February 19th at 6 PM Board of Selectmen & Finance Committee Joint Budget Meeting- GB Fire Station
- Tuesday, February 19th at 7:30 PM ZBA- Town Hall

Wednesday, February 20th at 5 PM Design Advisory Committee- Town Hall

Wednesday, February 20th at 6 PM Board of Selectmen & Finance Committee Joint Budget Meeting- GB Fire Station

Thursday, February 21st at 2:15 PM Great Barrington Housing Authority- Bernard Gibbons Drive

Thursday, February 21st at 6:30 PM Historic District Commission- Town Hall

Monday, February 25th at 7 PM Board of Selectmen- Town Hall

Wednesday, February 27th 1 PM Council on Aging- Claire Teague Senior Center

Wednesday, February 27th 7 PM Conservation Commission- Town Hall

Thursday, February 28th at 6 PM Planning Board- GB Fire Station

Thursday, February 28th at 7:30 PM Master Plan Committee- GB Fire Station

EXECUTIVE SUMMARY

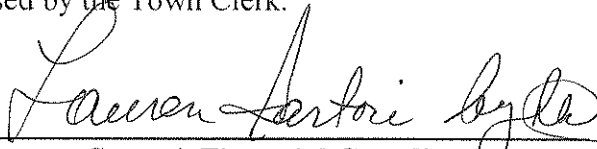
TITLE: Inform the Select Board of the results of the bids to issue temporary bond anticipation notes (BANS) for Capital Projects as authorized by the Board of Selectmen, Finance Committee and Town Meeting.

BACKGROUND: The Board of Selectmen, Finance Committee and Town Meeting have approved capital projects to be funded by borrowing authorizations as recommended in the budget processes in the remaining amount of \$2,135,000 for the general fund and \$4,500,000 for the sewer enterprise fund. In order to meet the dates of the expected contractual payments of these projects, money is being borrowed on a temporary basis and will be replaced with a permanent borrowing in the future by issuing bonds. The decision to issue the permanent bonds in the future is to enable the Town to take advantage of very low interest rates on a temporary basis in an unsettled market, gain the advantage of economy of scale when incurring the issuance costs for permanent bonds and comply with Federal arbitrage rules. A pay down of \$312,000 was made and the new temporary borrowing is in the amount of \$1,850,000 for the following capital projects: Fire Truck \$190,000, DPW Vehicles \$140,000, Street Improvements \$1,230,000 and Sewer Improvements \$290,000.

FISCAL IMPACT: The interest rate of .50% on the BANS was determined by competitive bids. Five bids were received ranging from .50% to .60%. Eastern Bank was awarded the low bid for one note. The interest cost will be approximately \$ 4,214.00 on this note which is due July 15, 2013.


RECOMMENDATION: No Board action is necessary, however, the Board needs to sign the notes witnessed by the Town Clerk.

PREPARED BY:


Lauren Sartori, Financial Coordinator

DATE: 1-24-13

Approved:


Kevin O'Donnell, Town Manager

EIGHTH AMENDMENT TO PURCHASE AND SALE AGREEMENT
BETWEEN 20 CASTLE STREET, LLC, as Buyer
And
THE TOWN OF GREAT BARRINGTON, as Seller

20 Castle Street, LLC and the Town of Great Barrington, the parties to that certain Purchase and Sale Agreement for Massachusetts Real Estate dated February 13, 2012, and covering the premises known as 20 Castle Street, Great Barrington (the "Agreement"), hereby agree that the Agreement shall be amended as follows:

1.7 Closing: The date is revised as follows: within 387 days of execution of Purchase & Sale Agreement.

1.15 Buyer's Inspection Contingency Date: The period for inspection to occur is extended as follows: by within 380 days of execution of Purchase & Sale Agreement.

Rider B: The phrase "60 day inspection contingency period," previously amended to "350 day inspection contingency period," is replaced by "380 day inspection contingency period."

Rider C: The phrase "60 day inspection contingency period" on page 14, in the second full paragraph, previously amended to "350 day inspection contingency period," is replaced by "380 day inspection contingency period."

The Parties agree that either may terminate the Agreement with 7 days written notice to the other party.

Dated: January __, 2013

20 CASTLE STREET, LLC
By

TOWN OF GREAT BARRINGTON
By its Board of Selectmen

Title:

Buyer

Seller

JAN 09 2013

FEE: \$25.00 (pd)

BOARD OF SELECTMEN
GREAT BARRINGTON

DATE: 1-9-13



TOWN OF GREAT BARRINGTON

APPLICATION FOR ONE DAY LIQUOR LICENSE

TO THE LICENSING AUTHORITY:

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

APPLICANT'S NAME: Gt Barrington Fish + Game

ORGANIZATION NAME: Gt Barrington Fish + Game

APPLICANT'S ADDRESS: 338 Long Pond Rd Gt Barrington Ma 01230

Type of license being
Applied for:

ONE DAY BEER & WINE

ONE DAY ALL ALCOHOLIC

EVENT: Annual Ice Fishing Derby

DATE: Feb 9th 2013 START TIME: 11^{am} END TIME: 7^{pm}

LOCATION: Club House Long Pond Rd Gt Barrington Ma 01230
Great Barrington, MA 01230

In accordance with the rules and regulations made under authority of said Statutes.

David Vickery
Signature of Applicant

P.O. Box 608 Housatonic Ma 01236
Mailing Address

274-6291
Telephone Number

Decision:
Approved _____
Denied _____
Postponed _____

RECEIVED
TOWN MANAGER

JAN 09 2013

FEE: \$25.00 x 7 = \$175.00 (pd)

BOARD OF SELECTMEN
GREAT BARRINGTON

DATE: 1-9-13



TOWN OF GREAT BARRINGTON

APPLICATION FOR ONE DAY LIQUOR LICENSE

TO THE LICENSING AUTHORITY:

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

APPLICANT'S NAME: Gr. Barrington Fish + Game

ORGANIZATION NAME: Gr. Barrington Fish + Game

APPLICANT'S ADDRESS: 338 Long Pond Rd Gr. Barrington Ma 01230

Type of license being

Applied for:

ONE DAY BEER & WINE

ONE DAY ALL ALCOHOLIC

EVENT: Annual Ham Shoots

Every Sunday

DATE: 2-10-13 thru 3-24-13 START TIME: 11 am END TIME: 7 pm

LOCATION: Club House Long Pond Rd Gr. Barrington Ma 01230

7
total

In accordance with the rules and regulations made under authority of said Statutes.

David Vickery

Signature of Applicant

P.O. Box 608 Housatonic Ma 01230

Mailing Address

274-6291

Telephone Number

Decision:

Approved _____

Denied _____

Postponed _____

EXECUTIVE SUMMARY

TITLE: Appointment of Agricultural Commission member.

BACKGROUND: The Town has advertised for a resident to serve as a member on the Agricultural Commission for a term to expire June 30, 2013. Frederic Gordon is the only applicant who has applied for the position.

FISCAL IMPACT: Not applicable; members serve without compensation.

RECOMMENDATION: Appoint Frederic Gordon to the Agricultural Commission for a term to expire June 30th, 2013.

PREPARED AND REVIEWED BY:



DATE:

1/25/13

Kevin O'Donnell, Town Manager

Kevin O'Donnell

From: Kevin O'Donnell
Sent: Tuesday, January 15, 2013 10:01 AM
To: 'Frederic Gordon'
Cc: Helen Kuziemko; Jennifer Bailly
Subject: RE: Agricultural Commission vacancy

Mr. Gordon,

Thanks for your interest; your name will be submitted to the Select board for consideration at its January 28th meeting. You are welcome to attend. The meeting starts at 7 PM, second floor of Town hall.

Kevin O'Donnell
Town Manager
Town of Great Barrington
334 Main Street
Great Barrington, Massachusetts 01230
413-528-1619 x2
413-528-2290 fax

From: Frederic Gordon [<mailto:fredgordon42@gmail.com>]
Sent: Monday, January 14, 2013 9:21 PM
To: Kevin O'Donnell
Subject: Agricultural Commission vacancy

Mr. Kevin O'Donnell
Town Manager
Town of Great Barrington

January 15, 2013

re: I year term vacancy, Agricultural Commission

Dear Sir:

In response to the printed notice, consider this as my letter of interest for the position.

I am a legal resident and registered voter in the Town of Great Barrington. I reside at 177 Castle Hill Avenue. My phone is 413-528-0246

Kindly forward to me any application forms if needed, or contact me. By way of a brief resume, I am a retired attorney in good standing from offices in Massachusetts and Connecticut, and I have been a resident of the Berkshires for many years. I have prior municipal service as a long-term member of the Sheffield Planning Board. I am keenly interested in agriculture and recognize its vital importance to our region. I welcome the opportunity to participate in decisions affecting this sector for the betterment of our town.

Very truly yours,

Frederic Gordon

EXECUTIVE SUMMARY

TITLE: Appointment to the Town Manager Search Committee

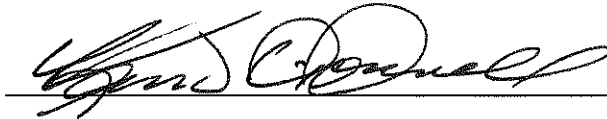
BACKGROUND: The Town Charter calls for seven residents to be appointed by the Select-board. The normal & accepted selection process is for an individual to be nominated, through a motion/second and upon receiving 3 affirmative votes of the Select-board that person is appointed. It would continue until the 7 positions are filled. Upon checking with the Town Attorney other methods could be utilized however, it may complicate the selection system. At least 3 Select-board members must be in the affirmative for the appointment of an individual since the charter specifies the Select-board appoints and the Select-board acts as an entity with affirmative votes unless a super majority is required.

The attached list is those who have applied and are qualified to serve; meaning they are residents of the Town of Great Barrington. Two individuals- Bill Cooke (spouse of a Select-board member) and Dan Bailly (spouse of an employee in the Town Manager's office) may give the appearance of a conflict of interest. It is recommended if those individuals are to be appointed the State Ethics Commission or Attorney General Office be consulted in advance of the appointment.

FISCAL IMPACT: Not applicable since these appointments serve without compensation.

RECOMMENDATION: The Select-board review the list of candidates, appoint 7 members in a mechanism in which the appointments receive at least 3 votes of the individual members of the Select-board.

PREPARED AND REVIEWED BY: _____



Kevin O'Donnell, Town Manager

Date: _____

1-25-13

RESOLUTION CREATING TOWN MANAGER SEARCH COMMITTEE

WHEREAS, The Board of Selectmen has appointed a Screening Committee, as required by the Charter, consisting of seven residents of the Town of Great Barrington, to screen candidates for the position of Town Manager;

WHEREAS, The Screening Committee shall work collaboratively with the staff of the Collins Center for Public Management at UMASS Boston along the lines described in the Collins Center Scope of Work dated November 20, 2012, which is incorporated by reference;

WHEREAS, The Screening Committee, with the assistance of the Collins Center, shall recommend approximately three to five candidates to the Board of Selectmen as finalists for the position of Town Manager. The recommendations shall be unranked with the finalists fully vetted before the Screening Committee makes its recommendation;

Whereas, In carrying out its work the Screening Committee will utilize the Profile approved by the Board of Selectmen to guide its work as well as the professional advice of the Collins Center staff;

Whereas, To the extent permitted by law, the Screening Committee shall maintain the names and any information about candidates in strict confidence until it votes its recommendations;

Whereas, It is the intention of the Board of Selectmen for the Screening Committee to function as an advisory committee of the Town of Great Barrington government as defined in Massachusetts General Law and shall operate in conformance with Massachusetts Open Meeting Law and all other applicable laws;

NOW THEREFORE BE IT RESOLVED by the Select Board of the Town of Great Barrington that a Town Manager Screening Committee is hereby created and is duly authorized to commence work.

PASSED AND APPROVED BY the Town of Great Barrington Select Board this 28th of January, 2013.

SELECT BOARD

Helen Kuziemko

Contact Group Name: TOWN MANAGER SCREENING COMMITTEE APPLICANTS

Members:

Art Ames	generalmanager@berkshire.coop
Betsy Andrus	betsy@southernberkshirechamber.com
Bill Cooke	bill@billcooke.com
Cara Davis	construct12@yahoo.com
Daniel Bailly	dbailly@nycap.rr.com
David Asaph	dsaph9@hotmail.com
Gina Hyams	ginahyams@gmail.com
John Breasted	johnbreasted@earthlink.net
Jonathan Hankin	jonathan.hankin@roadrunner.com
LZMiller-5TownCAC@roadrunner.com	LZMiller-5TownCAC@roadrunner.com
Michael Wise	michaelwise@earthlink.net
Michelle Loubert	bloubert@verizon.net
Patrick Fennell	letmepaintpf@tahoo.com
Peter Dillon (peter.dillon@bhrsd.org)	peter.dillon@bhrsd.org
Robin Helfand	robinhelfand@yahoo.com
Sharon Gregory	sharon@janeiredale.com
Shep Evans	shepevans@yahoo.com
Thomas Blauvelt	tblauvelt@wheelerandtaylor.com
Veronica Cunningham	veronica404@netzero.com

**Zoning Board of Appeals
Town of Great Barrington**

NOTICE OF PUBLIC HEARINGS

The Great Barrington Zoning Board of Appeals will hold a public hearing on Tuesday, February 19, 2013, at 7:30 p.m. at Town Hall, 334 Main St., Great Barrington, to act on the special permit application of Jan Wojcik and Ruby Chang, for property at 1 Roger Road, to build a carport. The property received a special permit in 2008 to replace an existing nonconforming dwelling. A copy of the petition is on file at the Town Clerk's office, Town Hall. Zoning Board of Appeals members will make a site visit at 5 p.m. that same date.

Ron Majdalany, Chairman

Berkshire Record - Jan. 25 & Feb. 1 / 2013



Town of Great Barrington
Massachusetts

ZBA-1
Rev. Aug. 2011

Application to the
Zoning Board of Appeals

INSTRUCTIONS

You may download this form and fill it in on your computer. Fill out all applicable information. Save and print the form, and sign it where required. When you are ready with your form and all supporting plans and materials, call the Town Planner to set up a time to file the application. You will need to submit the original and 14 full copies of the entire package. It may not be submitted electronically, but submissions made by mail are acceptable. Incomplete applications and those not accompanied by the required fee or copies may be rejected. The Town Planner can be reached at (413) 528-1619, x.7 (Note, for Comprehensive Permit applications, please call the Town Planner.)

FOR OFFICE USE ONLY

Filing Date: _____
Received and checked for completeness
by: _____
Number Assigned: _____
Date filed with the Town Clerk _____
FOR ZBA USE:
Advertising dates: _____ & _____
Public hearing date: _____

TIMELINE: The Zoning Board of Appeals (ZBA) will set a public hearing date that is at least 45 days but no more than 65 days from the date of your filing. The hearing date will be posted at Town Hall and in accordance with the Open Meetings Law, and notice of the hearing will be sent to the Applicant and/or Applicant's agent and abutting property owners by mail, and advertised for two consecutive weeks in the local newspaper.

<p>A. WHAT ARE YOU SEEKING?</p> <p>Check all that apply. If you are unsure, please consult with the Town Planner, Building Inspector, or ZBA Secretary (413-528-4953)</p> <p><input type="checkbox"/> VARIANCE (exempts a property from some Zoning requirements) <i>You must complete portions A, B, C, D, G, H, I, and J of this form.</i></p> <p><input checked="" type="checkbox"/> SPECIAL PERMIT (for changes to nonconforming uses, structures) <i>You must complete portions A, B, C, E, G, H, I, and J of this form.</i></p> <p><input type="checkbox"/> APPEAL (to overturn a decision of Building Inspector or a Board) <i>You must complete portions A, B, C, F, G, H, I, and J of this form.</i></p>	<p>B. SITE / PROPERTY INFORMATION</p> <p>Address of Subject Property <u>1 Roger Road</u></p> <p>Assessor's Map No. <u>37</u> Lot No. <u>1</u></p> <p>Zoning District(s) <u>R1B</u></p> <p>Overlay District (if any) _____</p>
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C. APPLICANT AND OWNER INFORMATION

<p>Applicant's Information</p>	<p>Name (please print) <u>Jan Wojcik (Ruby Chang)</u> Phone (area code first) <u>413-531-5908</u></p> <p>Street Address <u>1 Roger Road</u></p> <p>City, State, Zip Code <u>Great Barrington, MA 01230-1472</u></p> <p>Email Address <u>jbwojcik@gmail.com</u> Signature <u>[Signature]</u></p>
<p><input type="checkbox"/> Check here if Applicant and Property Owner are the same, and skip to the next section.</p> <p><input checked="" type="checkbox"/> Check here if Applicant is different than the Property Owner, and to verify that you have the Property Owner's permission to file this Application. Note that the Property Owner must sign below to indicate permission to file this Application.</p>	
<p>Enter Property Owner's information EXACTLY as it appears on the most recent tax bill.</p>	
<p>Property Owner's Information</p>	<p>Name (please print) <u>Jan Wojcik</u> Phone (area code first) <u>413-531-5908</u></p> <p>Street Address <u>1 Roger Road</u></p> <p>City, State, Zip Code <u>Great Barrington, MA 01230-1472</u></p> <p>Email Address <u>jbwojcik@gmail.com</u> Registry of Deeds Book No. _____</p> <p>Signature <u>[Signature]</u> Page No. _____</p>

D. VARIANCES If you are requesting a variance, please answer all of the following. Attach additional sheets if necessary.

1) From which Section(s) of the Zoning Bylaw do you request a variance?

2) What will the requested variance(s) enable you to do?

3) If the variance(s) is not granted, what hardship will that cause you?

4) What special circumstances relating to soil condition, shape or topography of land or structures, affect your property but not other properties in the same zone?

5) Explain why your special circumstances are not a result of your own actions.

6) If the variance(s) is not granted, what rights will you be deprived of that other properties in the same zone enjoy?

7) Explain why a variance will not give you any special privileges that other properties in the same zoning district don't have.

E. SPECIAL PERMITS If you are requesting a special permit, please answer all of the following. Attach additional sheets if necessary.

1) A special permit is being requested in order to ((please describe project):

Build Carport within front yard setback

2) This application is made under the following Sections of the Zoning Bylaw (check all that apply)

Section 5.2 Section 5.3 Section 5.5
 Section 5.6 Section 5.7 Section 10.4

3) Reason(s) that this property is not in conformance with the Zoning Bylaw

Existing Residence permitted by ZBA within front yard setback

4) Are there any previous Special Permits or Variances for this property?

No Yes
If yes, provide date(s), and name of issuing Board ZBA 750-08

F. APPEALS If you are seeking an appeal, please answer all of the following. Attach additional sheets if necessary.

1) This application is to appeal the decision of

Building Inspector Planning Board Board of Selectmen

2) Date of decision

3) Nature of the decision

4) Applicable Section(s) of the Zoning Bylaw

5) Describe your interpretation of the nature of the decision and the remedy you seek. Attach additional sheets if needed.

G. REQUIREMENTS FOR ALL APPLICATIONS

By checking the items below, applicant acknowledges that each application is accompanied by each of the items listed below.

- Plot Plan of the entire property or tract. The Board may require the plan to be signed by a licensed surveyor or engineer, particularly if the matter involves dimensional issues. The plan should include those items listed in Section 10.53 of the Zoning Bylaw, including two locus maps—one USGS survey map and one current zoning map—illustrating property location.
- A current list of all abutters within 300 feet of the property, including address of owner, map and lot number. The list must be obtained from the Assessor's office and certified by the Assessor's office. Call 413-528-1619, x. 5.
- At least one copy of the application and plans / specifications shall be no larger than 11 x 17 inches.

H. APPLICATION FEE

Application fees are calculated at \$150 per request. (For example, if one box in A. is checked, the fee is \$150. For two boxes, the fee is \$300.)

- Check here to confirm that your check in the appropriate amount is enclosed. Make checks payable to Town of Great Barrington.

I. TECHNICAL REVIEW FEES

- The Zoning Board of Appeals may hire independent consultants whose services shall be paid for by the applicant(s) under the terms of the Rules and Regulations of the Zoning Board of Appeals, and in accordance with Chapter 44, Section 53G of the Massachusetts General Laws. Check here to acknowledge and be bound by these regulations. Failure to acknowledge shall cause this application to be rejected as incomplete. Please also sign here: _____

J. ADDITIONAL INFORMATION

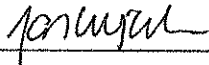
Recommending Boards: All applications to the Zoning Board of Appeals are referred to the Planning Board, Conservation Commission, Board of Health, and Board of Selectmen for comments and recommendations. Applicants should be prepared to attend those meetings in order to brief those boards of their project and answer any questions.

Site Visits: The ZBA and recommending Boards may contact the Applicant to request a site visit. Applicants agree to facilitate access to the site at a mutually convenient date and time.

Timeline/ Procedures: The ZBA conducts its business in accordance with Massachusetts General Laws. Accordingly, the ZBA will hold its Public Hearing not later than 65 days after the filing of the application. A decision for a variance or appeal will be rendered not later than 100 days from the filing date. A decision for a special permit will be made not later than 90 days after the close of the Public Hearing. The decision will be filed with the Town Clerk within 20 days of the date of the decision. The appeal period lasts for 20 days after the filing with the Town Clerk. On the 21st day, if no appeals are filed, or once all appeals are resolved, the applicant shall have the decision certified by the Town Clerk. The Applicant is responsible for then filing the decision with the Registry of Deeds, at which time the decision becomes effective.

Guidance and Counsel: In preparing this application and when presenting the case to the ZBA, applicants are advised to be fully familiar with, or seek counsel from a qualified person who is familiar with, the Zoning Bylaw and other rules, regulations, and laws as may be appropriate. If you wish to discuss the completeness of this application, or have any questions about this application, please contact the ZBA's Secretary, Bernard Drew, at 413-528-4953, or the Town Planner at 413-528-1619, x. 7. However, we will not discuss the merits or strategy of your case.

Applicant's Signature: "I have read and I understand all of the information on this application."



(signed)

12/5/12

(date)

Print Form

Need Help? Just call us.

Town Planner: (413) 528-1619, x.7

Building Inspector / Zoning Enforcement Officer:
(413) 528-3206

ZBA Secretary: (413) 528-4953

For bylaws, regulations, maps, and other useful information, visit us online at www.townofgb.org

Robert G. Guidi, Member
Bruce Firger, Member



334 Main Street, Room 205
Great Barrington, MA 01230-1831

Principal Assessor
Christopher Lamarre

Telephone: (413) 528-1619 ext. 5
Fax: (413) 528-2290

TOWN OF GREAT BARRINGTON
MASSACHUSETTS

BOARD OF ASSESSORS

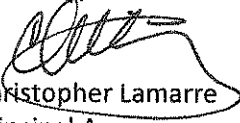
December 6, 2012

ABUTTERS TO PROPERTY OF: JAN WOJICK and RUBY CHANG
1 Roger Road, Map 37 Lots 1, 1C, Book 2152 Pg. 157

<u>MAP</u>	<u>LOT</u>	<u>ABUTTER</u>
37	1A	Linda M. Schafiroff, Trustee, Blackwater Realty Trust, 5 Hillside Ave., Gt. Barrington, MA 01230-1482
37	1B	Bryan H. & Sally L. Marsh, 18 Gale Ln., Ormond Beach, FL 32174-9224
37	2	Jeanne R. Chesanow, 214 Cornwall Ave., Cheshire, CT 06410-2738
37	9	GJO LLC, Po Box 467, Lee, MA 01238-0467
37/8,12/28,29		Town of Great Barrington, 334 Main St. Room 208, Gt. Barrington, MA 01230-1832
36	34	Zbigniew Aszyjczyk & Kornelia Krzyzanowska, 27 Blue Hill Rd., Gt. Barrington, MA 01230-1203
36	34A	Virginia M. Petell & John A. Petell, 29 Blue Hill Rd., Gt. Barrington, MA 01230-1203
36	35C	Barbara Palumbo, 33A Blue Hill Rd., 33A Blue Hill Rd., Gt. Barrington, MA 01230-1282
12	30,31	Richard L. & Elizabeth Jones, 19 Blue Hill Rd., Gt. Barrington, MA 01230-1203

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

Sincerely,


Christopher Lamarre
Principal Assessor

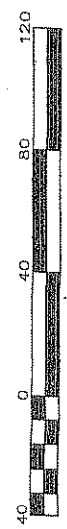
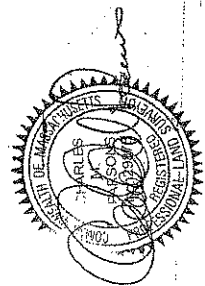
THIS PARCEL IS SUBJECT TO AND WITH THE BENEFIT OF ALL RIGHTS, RESTRICTIONS, CONDITIONS, EASEMENTS, LEASES, ENCUMBRANCES AND APPURTENANCES OF RECORD.

LOCUS DEED: BK - 1437 PG - 28
RECORD OWNER: BLACKWATER REALTY TRUST

THIS IS NOT A SURVEY AND IS SUBJECT TO ANY STATEMENT OF FACTS A SURVEY MAY REVEAL.

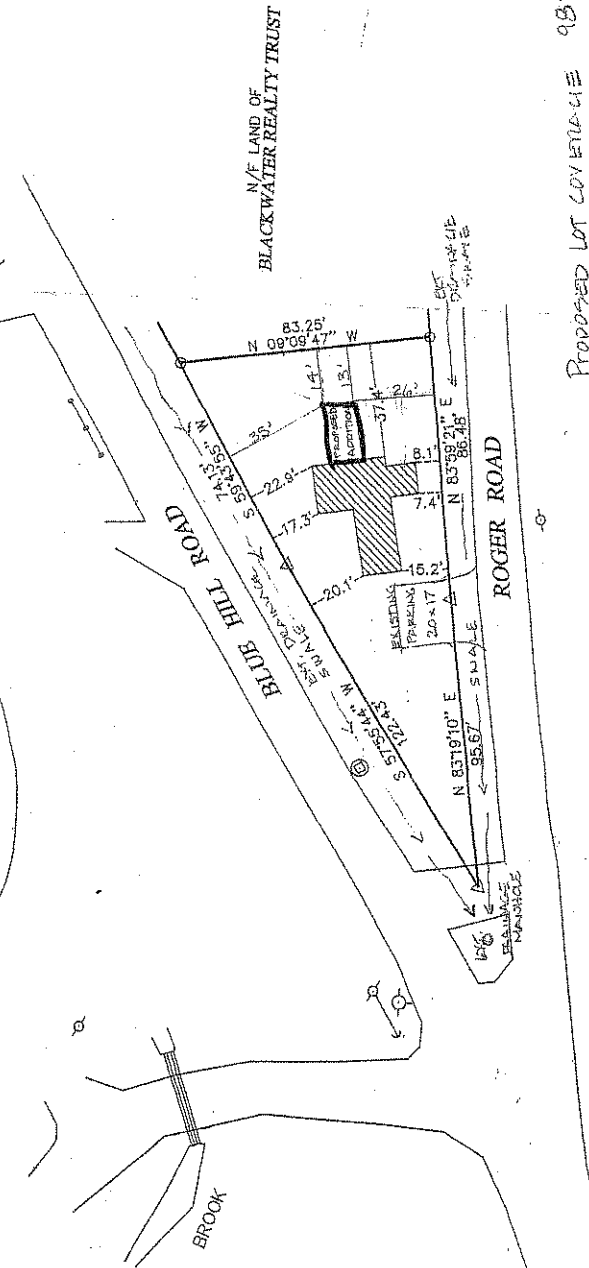
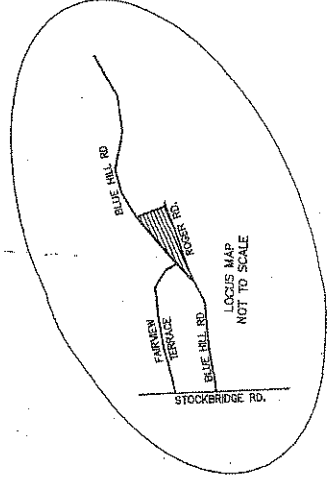
ZONING REQUIREMENTS
LOT SIZE: 6,500 SQ FT
FRONTAGE= 60'
FRONTAGE SETBACK= 25'
SIDE YARD= 10'
REAR YARD= 30'

DWELLING TO BE RAZED AND RE-CONSTRUCTED



Scale 1" = 40'

PROPOSED ADDITIONS AND PARKING SPACES BY CBS, LLC.



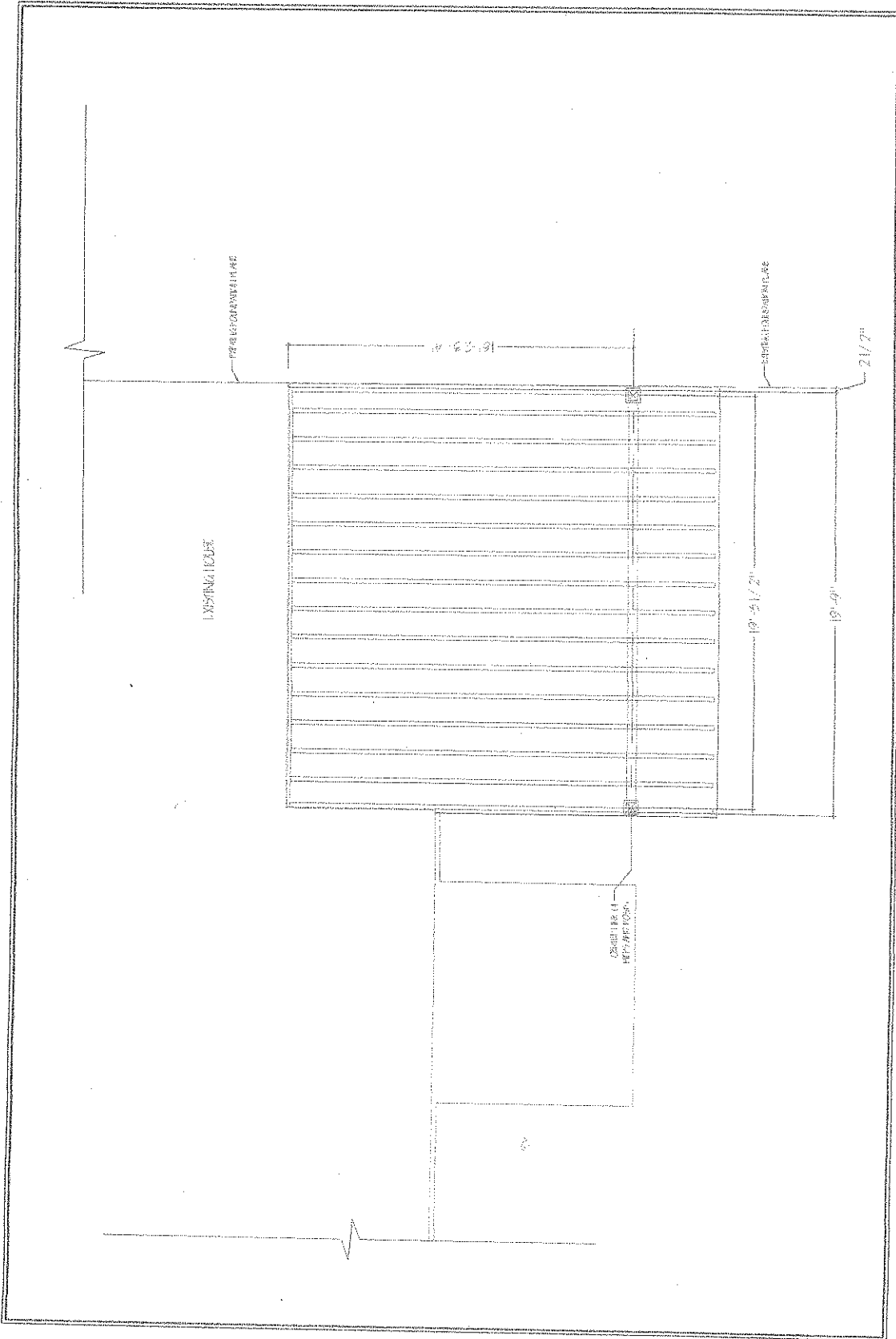
Proposed LOT COVERAGE 98.25% SFT

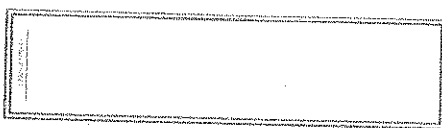
SPECIAL PERMIT SITE PLAN PREPARED FOR
BLACKWATER REALTY TRUST
GREAT BARRINGTON, MASSACHUSETTS
JULY 1, 2007 SCALE: 1" = 40'
KELLY, GRANGER, PARSONS & ASSOCIATES, INC.

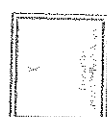
ENGINEERS AND SURVEYORS
312 MAIN STREET P.O. BOX 88
GREAT BARRINGTON, MASSACHUSETTS 01230
FAX (413) 528-1912 PHONE (413) 528-3291
File name: C:\EP14\PILOTPLAN.DWG



NO.	DATE	REVISIONS

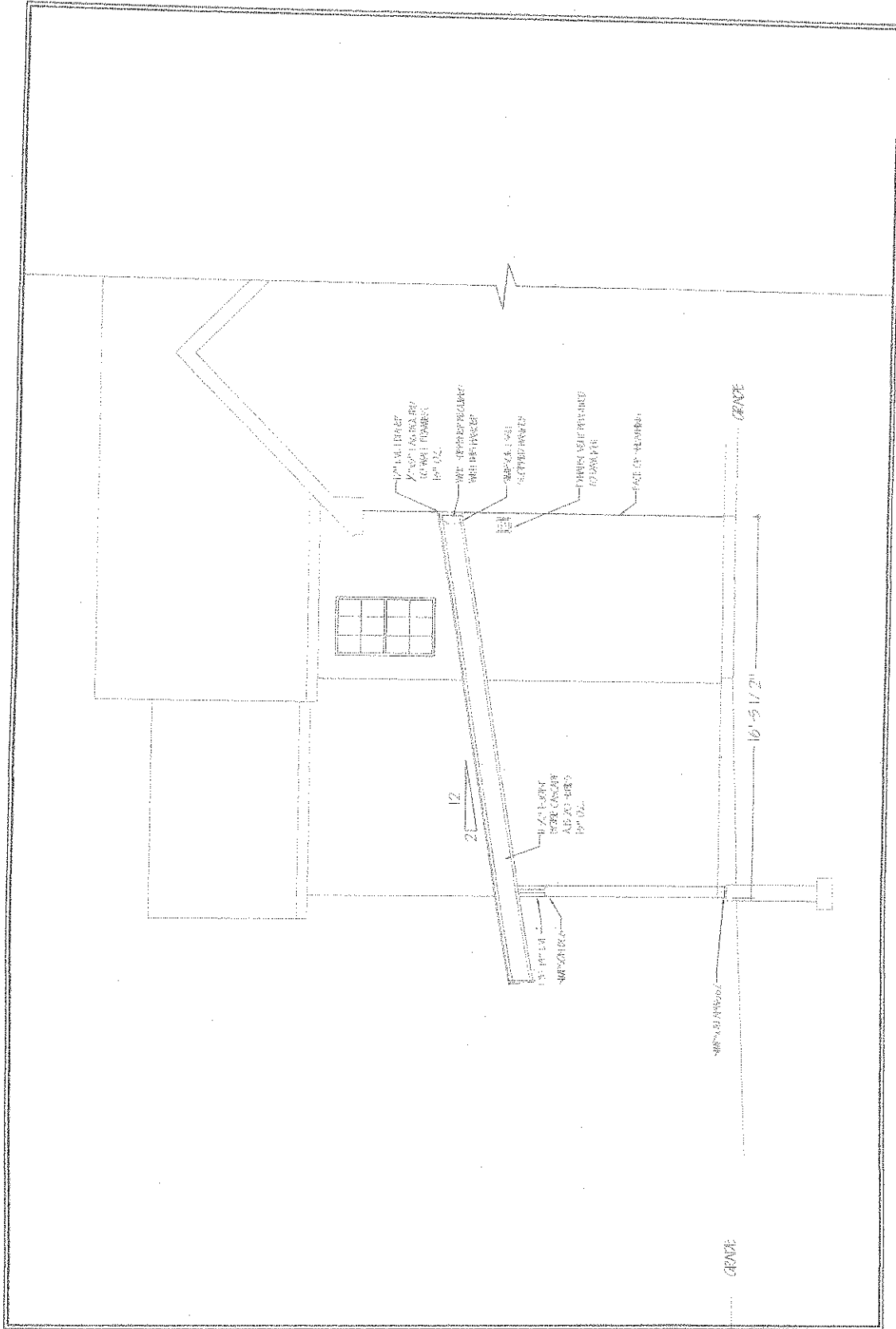






HERMAN

A6



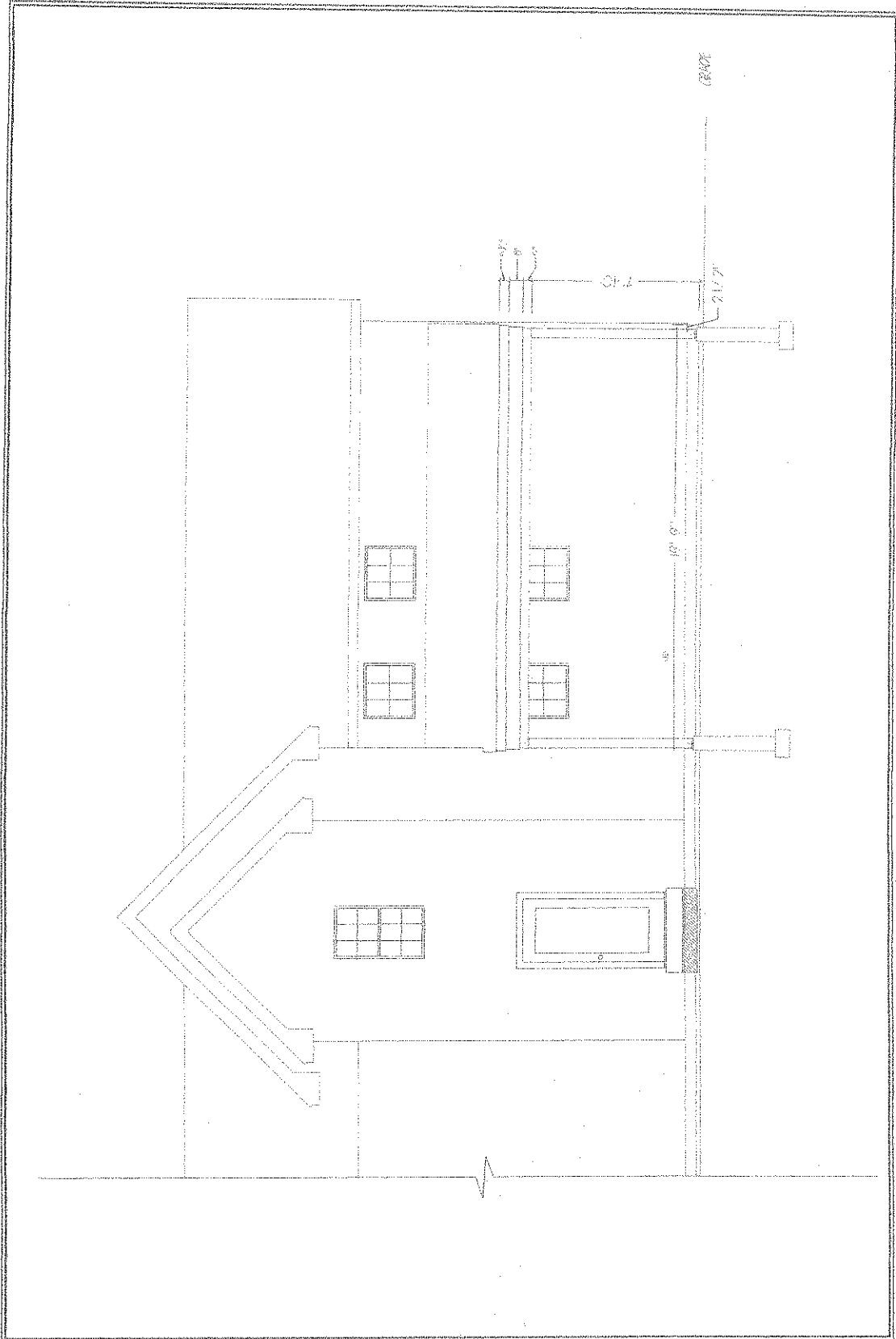


NO.	DATE	REVISION

SCALE
1" = 16'-0"

REVISIONS

A6



Application for Special Permit Under Zoning Bylaws
EXTENSION OR ALTERATION OF NONCONFORMING STRUCTURE OR USE
Town of Great Barrington, Massachusetts

Number assigned 750-DE Zoning Date accepted by Town Clerk's Office _____

Please note: Four signatures of applicant are required on following pages.

Owner(s) name(s) exactly as appearing on tax bill John W. Graziano, Trustee of Blackwater Realty Trust

(If a corporation, name of contact person) _____

Mailing Address c/o Hellman & Shearn

342 Main Street, Great Barrington, MA 01230

Telephone 413-528-4800 Fax 413-528-9988 E-mail lawyers@hellmanshearn.com

Applicant(s) or agent(s) name if other than owner (see also item 5 under Requirements)

Sarah Stiner, Creative Building Solutions

Mailing Address PO Box 257

Housatonic, MA 01236

Telephone 413-274-6084 Fax _____ E-mail _____

Property is located at 1 Roger Road

Assessors Map 37 Lot 1 Registry of Deeds Book 1437 Page 28

A special permit is requested in order to (describe project in detail): _____

raze the existing structure; construct on essentially the same footprint; plus remove a

shed and add a small addition; add a second floor.

The application is made under Section 171-36; 171-45 of the Town Zoning Bylaw

Reason(s) property is nonconforming: existing building does not comply with

front and rear setbacks

Is there a previous special permit or variance for this property? No

If so, when was it issued? _____

Applicant's name as owner at time? _____

AT BARRINGTON
TOWN CLERK
JUN2008 PM03:12

THIS IS NOT A PERMIT TO RENOVATE, REMODEL, BUILD, OR OCCUPY THESE PREMISES. THESE PERMITS MUST BE OBTAINED FROM THE BUILDING INSPECTOR AS APPLICABLE.

TOWN OF GREAT BARRINGTON, MASSACHUSETTS

CASE NO: ZBA 08-05

DATE FILED: 10 June '08

Record of Proceedings
On Application For A Special Permit

(Copies of this record of proceedings with all attachments must be filed within 14 days of the Public Hearing with the Town Clerk.)

I, _____, Clerk of the Board of Appeals, hereby certify that the following is a detailed record of all its proceedings relative to the application of:

John W. Graziano, Trustee, Blackwater Realty Trust
(Name and Address of Applicant)

for a special permit under Section 171, 36 + 45 of the Zoning Bylaw.

The Applicant desires to:

The premises affected are located at 1 Roger Road being in Zoning District in which the above mentioned use requires a special permit from the Board of Appeals.

1. On 10 June 2008, an application of which a true copy marked "A" is made a part of this record was presented to the Board of Appeals.
2. Thereupon, an advertisement, a true copy of which marked "B" is made a part of this record, was published in the Shopper's Guide, a newspaper published in Great Barrington on July 30 and on Aug 6 2008

3. Notices of the hearing, a copy of which marked "C" is made a part of this record, were mailed postpaid to the petitioner, abuttor, and owners of land within 300 feet of the property line, being the same persons named in the Assessors certificate which was a part of the petition heretofore referred to and marked "A", and to the Planning Board and the planning boards of every abutting municipality and to the Inspector of Buildings.

4. On Aug 12, 2008, a hearing was held at the Great Barrington Town Hall, at which opportunity was given to all those interested to be heard in favor or in opposition to said petition, application or appeal at which hearing

Members Present: Ron Mojdalar, Carolyn Grogan,
David Thorne, Margaret Whitfield, Kathy Kotleski

5. Following the hearing the Board made the following specific findings regarding the land in question and the proposed use:

See decision

NOTE: Restatement of mandatory provisions and requirements are not to be taken as findings.

6. The Board voted at its meeting on Aug 12, 2008
as detailed below to:

DENY the application based on findings as recorded under Item 5 herein.

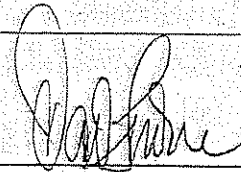
GRANT the application subject to the following conditions, safeguards and limitations on time or use, if any.

*Subject to conditions
specified in decision.*
CG

NOTE: Show the vote of each member upon each question or, if absent or failing to vote, indicate such fact, and set forth clearly the reason or reasons for its decision, and of its other official actions.

MEMBERS PRESENT: Majdalaney Thorne Whitfield Aragon Kettle

Signature _____



Clerk

01956
0123



2009 00207534

Bk: 1956 Pg: 62 Doc: PRMT
Page: 1 of 1 11/30/2009 01:51 PM

TOWN OF GREAT BARRINGTON

**NOTICE FOR RECORDING IN THE REGISTRY OF A DECISION
TO GRANT A SPECIAL PERMIT OR ANY EXTENSION,
MODIFICATION OR RENEWAL OF A SPECIAL PERMIT**

To: John W. Graziano, Trustee, Blackwater Realty Trust
In care of Hellman & Shearn
342 Main St.
Great Barrington, MA 01230

By the Zoning Board of Appeals affecting the rights of the owner with respect to the use of the premises at 1 Roger Road

The record title standing in the name of:
John W. Graziano, Trustee, Blackwater Realty Trust
c/o Hellman & Shearn, 342 Main St., Great Barrington, MA 01230

By deed duly recorded in the Southern Berkshire District, Berkshire County Registry of Deeds in Book 1437 Page 28

The decision of said Board is on file with the papers and plans in the office of the Town Clerk.

Signed and certified this 26th day of August, 2009.

The Zoning Board of Appeals

, CHAIRMAN

, CLERK

CERTIFICATE BY THE TOWN CLERK FOR FILING OF THE DECISION IN THE REGISTRY

This is to certify that twenty (20) days have elapsed since filing of the above decision with this office and no appeal has been filed, or appeal has been filed and denied in this case.

Linda A Coons asst
Signature and Seal of the Town Clerk

(FORM 102, ZBA)

ATTEST: BERKSHIRE SOUTH Wanda M. Beckwith REGISTER
WANDA M. BECKWITH

GREAT BARRINGTON
TOWN CLERK
AUG 2008 AM 11:54

ZONING BOARD OF APPEALS
TOWN OF GREAT BARRINGTON
Decision No: 08-05

Applicant: Owner: John W. Graziano, Trustee , Blackwater Realty Trust, c/o Hellman & Shearn, 342 Main St., Great Barrington, MA 01230. Applicant: Sarah Stiner, Creative Building Solutions, PO Box 257, Housatonic, MA 01236.

Application For: Special Permit to raze a preexisting nonconforming dwelling at 1 Roger Road, Great Barrington, and rebuild. This application is made under Section 171-36E and 171.45B.

Date of Hearing and Site Visit: August 12, 2008.

Board Members Conducting Hearing and Voting: Ron Majdalany, David Thorne, Carolyn Grogan, Margaret Whitfield, Kathy Kotleski.

Decision: Application Approved. A 9 foot portion of the cellar shall remain to indicate the existing grandfathered building.

Vote of ZBA Board: Five to nothing (5-0) to approve.

Findings and Reasons:

The property is currently zoned R1B. Permit is sought to raze the preexisting nonconforming dwelling and construct a two-story dwelling on the same footprint. A 10x20-foot kitchen, with a second floor for a bedroom, will be added. The addition will be in conformity with setback and lot coverage. A shed on the property will be removed. The lot is conforming as to size and road frontage. The existing dwelling is nonconforming only as to front and rear setbacks, created by the triangular shape of the land.

Evidence presented shows the building dates from March, 1912, per deed records. It predates the town's first zoning bylaw (1932).

Favorable letters from the Board of Selectmen and Planning Board were received in support of the application. A letter from the conservation agent indicated there were no wetlands issues.

Findings:

171-36E – The razing and reconstruction of the non-conforming structure is in compliance with the intent of the bylaws. It is desirable as it replaces a structure in substantial disrepair with a dwelling of sound construction on the grandfathered footprint.

The addition meets all dimensional requirements. The new dwelling will be an improvement in appearance, and is thus desirable to the character of the neighborhood.

Additionally, the building will not be in greater non-conformity, as it is within lot coverage requirements and has adequate space for off-street parking (two spaces are required and provided).

The residential use will not result in increased air or water pollution, odor, glare or electrical interference, or increase noise, traffic or night operation, as the property will remain a single family dwelling.

141-45B – The zoning bylaws allow for the expansion of lawful pre-existing nonconforming structures as well as the means for their upgrade. The continued residential use is in harmony with the residential zone, and is desirable as it improves housing stock without creating a new building lot. Undue congestion will not be created, and resources will not be overloaded, as the town water and sewer systems already serve the property. Therefore, this proposal complies with all provisions and requirements of this chapter.

A Reminder of the Applicant's Legal Responsibilities:

The applicant should be aware that no work shall commence on the building until the 20 day appeal process (time period starting from the time-stamped date of submission of this decision to the Town Clerk) has passed. In the event that the conditions are not met, the Building Inspector will take appropriate action, which can lead to revocation of this Special Permit.

Dated: Aug 26, 2008

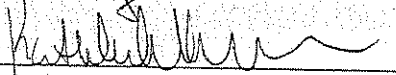
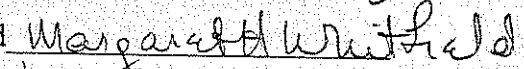
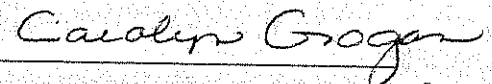
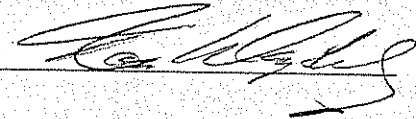
Ronald Majdalany

David Thorne

Carolyn Grogan

Margaret Whitfield

Kathy Kotleski



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Bk: 1956 Pg: 62 Doc: PRMT
Page: 1 of 1 11/30/2009 01:51 PM

TOWN OF GREAT BARRINGTON

NOTICE FOR RECORDING IN THE REGISTRY OF A DECISION
TO GRANT A SPECIAL PERMIT OR ANY EXTENSION,
MODIFICATION OR RENEWAL OF A SPECIAL PERMIT

To: John W. Graziano, Trustee, Blackwater Realty Trust
In care of Hellman & Shearn
342 Main St.
Great Barrington, MA 01230

By the Zoning Board of Appeals affecting the rights of the owner with respect to the use of the premises at 1 Roger Road

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c/o Hellman & Shearn, 342 Main St., Great Barrington, MA 01230

By deed duly recorded in the Southern Berkshire District, Berkshire County Registry of Deeds in Book 1437 Page 28

The decision of said Board is on file with the papers and plans in the office of the Town Clerk.

Signed and certified this 26 day of August, 2009.

The Zoning Board of Appeals

, CHAIRMAN

, CLERK

CERTIFICATE BY THE TOWN CLERK FOR FILING OF THE DECISION IN THE REGISTRY

This is to certify that twenty (20) days have elapsed since filing of the above decision with this office and no appeal has been filed, or appeal has been filed and denied in this case.

Linda A. Coombs asst
Signature and Seal of the Town Clerk

(FORM 102, ZBA)

ATTENTY: BERKSHIRE SOUTH Wanda E. Beckwith REGISTER
WANDA E. BECKWITH

DRAFT RESOLUTION

**CALLING UPON STATE AND FEDERAL OFFICIALS TO BAN ASSULT WEAPONS, HIGH POWERED
AMMUNUTION AND MULTI CLIP AMMUNO DEVICES**

WHEREAS, the nation has continued to endure senseless tragedies, most recently at Newtown, Connecticut through the wide proliferation of assault weapons, high powered and multi clip ammunition;

WHEREAS, these killings must come to an abrupt end especially in the slaughter of our youth;

WHEREAS, local government officials are severely limited in the passing of effective legislation controlling these military type weapons which have no place in a society among its civilian population;

WHEREAS, it is imperative that State and Federal government officials immediately consider legislation that would outlaw military style weapons and the associated high power multi clip ammunition from the general population while still preserving the intent of the second amendment to the United States Constitution;

WHEREAS, United States Senator Feinstein of California is proposing legislation with the 113th Congress to regulate these dangerous military weapons and ammunition with the intent to keep the general population safe, especially our children;

NOW THEREFORE BE IT RESOLVED by the Select board of the Town of Great Barrington that it officially requests member of its State and Federal legislation delegation to support legislation that would regulate and ban military style weapons and associated ammunition from civilian use beyond the existing inadequate State and Federal legislation at present time;

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Representative Pignatelli, State Senator Downing, Congressman Neal, United State Senators Kerry and Warren.

Passed and approved this _____ day of January, 2013.

Town of Great Barrington Select board

Obama unveils sweeping new gun control proposals

By Carrie Dann, Political Reporter, NBC News

January 16, 2013, 10:38 am

NBCNews.com

Updated 12:20 p.m. -- President Barack Obama unveiled sweeping new policies Wednesday aimed at limiting gun violence, teeing up a political showdown that will pit the broad public popularity for many gun control measures against Congress's tepid appetite for approving the most stringent restrictions on gun ownership.



"While there is no law or set of laws that can prevent every senseless act of violence completely, no piece of legislation that will prevent every tragedy, every act of evil," Obama said at a mid-day announcement at the White House, "if there's even one thing we can do to reduce this violence, if there's even one life that can be saved, then we've got an obligation to try it."

Acknowledging the difficulty of the Congressional fight ahead, Obama appealed for public support, slamming - as he did in a press conference earlier this week - conservative commentators and the most vocal pro-gun activists for "ginning up" opposition to gun reforms for political reasons.

"I will put everything I've got into this and so will Joe [Biden], but I tell you, the only way we can change is if the American people demand it," he said.

Some of the main legislative proposals backed by Obama and Vice President Joe Biden are:

- requiring criminal background checks on all gun sales, including private sales
- banning "military-style" assault weapons
- limiting ammunition magazines to 10 rounds
- strengthening penalties for gun trafficking

"The most important changes we can make depend on Congressional action," Obama said. "They need to bring these proposals up for a vote and the American people need to make sure that they do."

Related Information: [Gun Violence Fact Sheet](#) | [Gun Violence Executive Summary](#) | [Gun Violence Reduction Executive Actions](#)

The president also signed a series of 23 executive actions - free from a Congressional blockade -- intended to strengthen existing laws, augment mental health measures and promote federal research on gun crime through the Centers for Disease Control.

The executive actions announced included stricter prosecution of would-be gun buyers who fail background checks as well as new requirements for federal law enforcement to trace guns recovered

in criminal investigations.

The president's recommendations also direct administration officials to "clarify that the Affordable Care Act does not prohibit doctors asking their patients about guns in their homes" and to "release a letter to health care providers clarifying that no federal law prohibits them from reporting threats of violence to law enforcement authorities."

Obama and Biden were joined at the White House event by families of the Newtown school shooting victims as well as by four children who wrote the president after the tragedy that left 20 young students dead.

"This is our first task as a society: keeping our children safe," Obama said at the beginning of his remarks. "This is how we will be judged, and their voices should compel us to change."

Biden, who led the presidential task-force on gun safety in the wake of the Newtown shootings, praised the activists who met with his staff over the last week to help build the list of recommendations.

"The world has changed and it's demanding action," Biden said.

While some of Obama's long-expected proposals - like universal background checks - garner overwhelming public support, the outlawing of certain types of weapons may be less of a slam dunk for lawmakers eager to appease constituents.

A recent poll from the Pew Research Center showed that a majority of Americans -- 55 percent -- back a ban on "assault-style weapons," with 40 percent saying they don't approve of a ban. But a partisan breakdown shows that only about four in ten Republicans support such restrictions, compared to a broad majority of Democrats.

Democrats in Congress have already voiced doubts about the feasibility of the president's most ambitious proposals.

"We're not going to get an outright ban" on assault weapons, Democrat Rep. Carolyn McCarthy of New York bluntly said yesterday.

"[Senate Majority Leader] Reid has said he doesn't know whether he has the votes (for an assault weapons ban)," she added. "There's heavy lifting, so are we going to waste time on heavy lifting? Or are we going to try to work on doing something that could actually get passed?"

Related: Obama's gun plans spark little enthusiasm with key lawmakers

Supporters are more optimistic about background checks and magazine restrictions.

Senate Judiciary Committee Chairman Patrick Leahy announced Wednesday that his panel will hold its first hearing on issues relating to gun violence on Jan. 30.

In his remarks Wednesday, Obama anticipated opponents' reactions to his proposals.

"This will be difficult," he said. "There will be pundits and politicians and special interest lobbyists publicly warning of a tyrannical all-out assault on liberty. Not because that's true, but because they want to gin up fear or higher ratings or revenue for themselves, and behind the scenes they will do everything they can to block any commonsense reform and make sure nothing changes whatsoever."

That pushback began earlier in the week, culminating in high tempers on both sides Tuesday night after the National Rifle Association released an ad criticizing Obama's dismissal of the gun lobby's proposal to increase armed security in schools.

"Are the president's kids more important than yours?" a narrator asks in the short ad. "Then why is he skeptical about putting armed security in our schools when his kids are protected by armed guards at their schools? Mr. Obama demands the wealthy pay their fair share of taxes, but he's just another elitist hypocrite when it comes to a fair share of security."

Related: White House calls NRA 'repugnant,' 'cowardly' for invoking president's children in ad

The ad prompted outcry from observers who said the First Family should be off limits for such advertisements, while NRA backers say their focus is on school safety rather than on the president's daughters themselves.

"Whoever thinks the ad is about President Obama's daughters are missing the point completely or they're trying to change the subject," said spokesman Andrew Arulanandam. "This ad is about keeping our children safe. And the president said he was skeptical about the NRA proposal to put policemen in all schools in this country. Yet he and his family are beneficiaries of multiple law enforcement officers surrounding them 24 hours a day."

White House spokesman Jay Carney shot back that the ad is "cowardly."

"Most Americans agree that a president's children should not be used as pawns in a political fight," he said. "But to go so far as to make the safety of the President's children the subject of an attack ad is repugnant and cowardly."

NBC's Mark Murray, Frank Thorp, Ali Weinberg and Kelly O'Donnell contributed to this report.



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January 25, 2013

HUFF
POST **POLITICS**

Obama Gun Control: President To Unveil Gun Violence Measures, Including Assault Weapons Ban

AP | By By JULIE PACE and ERICA WERNER
Posted: 01/16/2013 2:56 am EST | Updated: 01/16/2013 1:07 pm EST



President Barack Obama plans to announce the several gun violence measures, including an assault weapons ban. (Photo by Chip Somodevilla/Getty Images)

WASHINGTON (AP) — Braced for a fight, President Barack Obama on Wednesday unveiled the most sweeping proposals for curbing gun violence in two decades, pressing a reluctant Congress to pass universal background checks and bans on military-style assault weapons and high-capacity ammunition magazines like the ones used in the Newtown, Conn., school shooting.

A month after that horrific massacre, Obama also used his presidential powers to enact 23 measures that don't require the backing of lawmakers. The president's executive actions include ordering federal agencies to make more data available for background checks, appointing a director of the Bureau of Alcohol, Tobacco, Firearms and Explosives, and directing the Centers for Disease Control to research gun violence.

But the president, speaking at White House ceremony, focused his attention on the divided Congress, saying only lawmakers could enact the most effective measures for preventing more mass shootings.

"To make a real and lasting difference, Congress must act," Obama said. "And Congress must act soon."

The president vowed to use "whatever weight this office holds" to press lawmakers into action on his \$500 million plan. He is also calling for improvements in school safety, including putting 1,000 police officers in schools and bolstering mental health care by training more health professionals to deal with young people who may be at risk.

Even supportive lawmakers say the president's gun control proposals — most of which are opposed by the powerful National Rifle Association — face long odds on Capitol Hill.

House Speaker John Boehner's office was non-committal to the president's package of proposed legislation, but signaled no urgency to act. "House committees of jurisdiction will review these recommendations," Boehner spokesman Michael Steef said. "And if the Senate passes a bill, we will also take a look at that."

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Senate Judiciary Committee Chairman Patrick Leahy said ahead of Obama's presentation that he didn't know whether an assault weapons ban could pass the Senate, but said there are some measures that can, such as improved background checks.

"There are some who say nothing will pass. I disagree with that," Leahy, D-Vt., told students at Georgetown University Law Center. "What I'm interested in is what we can get."

Acknowledging the tough fight ahead, Obama said there will be pundits, politicians and special interest groups that will seek to "gin up fear" that the White House wants to take away the right to own a gun.

"Behind the scenes, they'll do everything they can to block any commonsense reform and make sure nothing changes whatsoever," he said. "The only way we will be able to change is if their audience, their constituents, their membership says this time must be different, that this time we must do something to protect our communities and our kids."

The president was flanked by children who wrote him letters about gun violence in the weeks following the Newtown shooting. Families of those killed in the massacre, as well as survivors of the shooting, were also in the audience, along with law enforcement officers and congressional lawmakers.

"This is our first task as a society, keeping our children safe," Obama said. "This is how we will be judged."

Seeking to expand the impetus for addressing gun violence beyond the Newtown shooting, the president said more than 900 Americans have been killed by guns in the month since the elementary school massacre.

"Every day we wait, the number will keep growing," he said.

The White House has signaled that Obama could launch a campaign to boost public support for his proposals. Nearly six in 10 Americans want stricter gun laws in the aftermath of the Newtown shooting, with majorities favoring a nationwide ban on military-style, rapid-fire weapons and limits on gun violence depicted in video games, movies and TV shows, according to a new Associated Press-GfK poll.

A lopsided 84 percent of adults would like to see the establishment of a federal standard for background checks for people buying guns at gun shows, the poll showed.

The president based his proposals on recommendations from an administration-wide task force led by Vice President Joe Biden. His plan marks the most comprehensive effort to address gun violence since Congress passed the 1994 ban on high-grade, military-style assault weapons. The ban expired in 2004, and Obama wants lawmakers to renew and expand it.

Other measures Obama wants Congress to take up include limiting high-capacity ammunition magazines and requiring background checks for all gun buyers in an attempt to close the so-called "gun-show loophole" that allows people to buy guns at trade shows and over the Internet without submitting to background checks.

Obama also intends to seek confirmation for B. Todd Jones, who has served as acting director of the Bureau of Alcohol, Tobacco, Firearms and Explosives since 2011.

The president's plan does little to address violent images in video games, movies and entertainment, beyond asking the CDC to study their impact on gun crimes. Some pro-gun lawmakers who are open to addressing stricter arms legislation have insisted they would do so only in tandem with recommendations for addressing violence in entertainment.

The president's long list of executive orders also include:

- Ordering tougher penalties for people who lie on background checks and requiring federal agencies to make relevant data available to the federal background check system.
- Ending limits that make it more difficult for the government to research gun violence, such as gathering data on guns that fall into criminal hands.
- Requiring federal law enforcement to trace guns recovered in criminal investigations.
- Giving schools flexibility to use federal grant money to improve school safety, such as by hiring school resource officers.
- Giving communities grants to institute programs to keep guns away from people who shouldn't have them.

—

Associated Press writers Ken Thomas and Jim Kuhnhenh contributed to this report.

Filed by Jade Walker |

—

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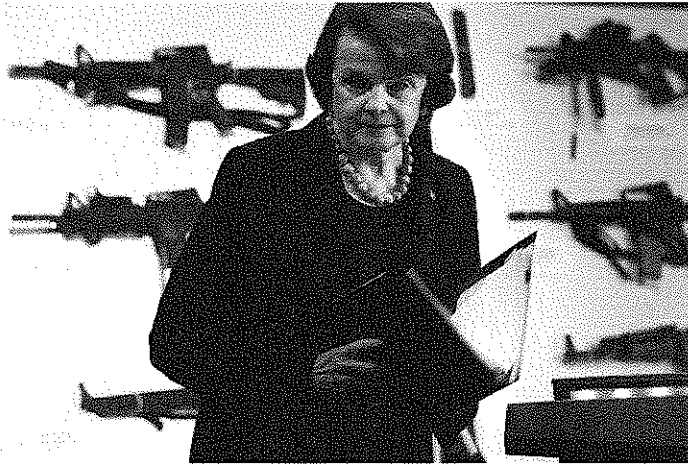
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Lawmakers unveil new assault weapons ban

Posted by Ed O'Keefe on January 24, 2013 at 12:35 pm

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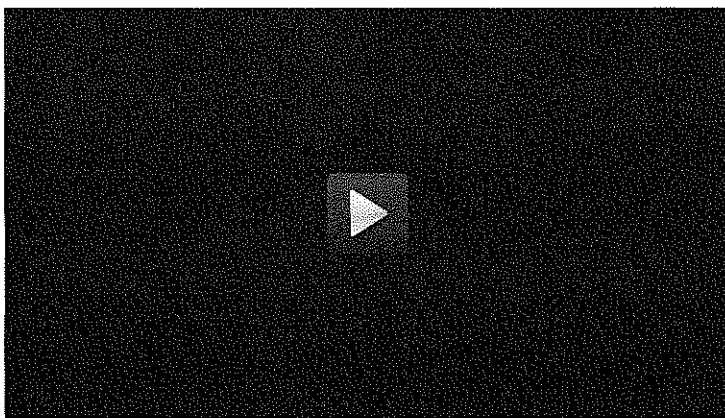


Sen. Dianne Feinstein (D-Calif.) stands next to a display of assault weapons during a news conference Thursday on Capitol Hill in Washington, DC. (Alex Wong/Getty Images)

Democratic lawmakers formally reintroduced a bill Thursday that would ban military-style assault weapons and high-capacity ammunition magazines, the most ambitious — and politically risky — element of proposals unveiled by President Obama to limit gun violence.

The "Assault Weapons Ban of 2013" is a much more far-reaching proposal than the federal ban that expired in 2004. The proposal would ban the sale, transfer, manufacturing or importation of more than 150 specific firearms, including semiautomatic rifles or pistols that can be used with a detachable or fixed ammunition magazines that hold more than 10 rounds and have specific military-style features, including pistol grips, grenade launchers or rocket launchers.

It excludes more than 2,250 firearms used for hunting or other sport, and assault weapons lawfully owned before the law's enactment. But it would require background checks for the sale or transfer of grandfathered weapons and would bar the sale or transfer of large-capacity feeding devices owned before the bill's enactment. Current assault weapon owners also would need to safely store their firearms. Unlike the original federal ban passed in 1994, the new ban would be permanent.



Democrats reintroduce assault weapons ban (AP)

Related: Story: Assault weapons ban is unveiled

The measure was unveiled Thursday morning by a slate of Democratic co-sponsors, led by longtime gun control advocates Sen. Dianne Feinstein (Calif.) and Rep. Carolyn McCarthy (N.Y.), who have pushed for the ban before in part because of their personal histories with gun violence.

"This is a tough battle," Feinstein said at the start of an elaborately-staged event on Capitol Hill to unveil the bill.

Feinstein and McCarthy were joined at the event by House and Senate Democrats cosponsoring the measure, representatives of gun control groups, survivors of mass shootings in Arizona, Colorado and at Virginia Tech, Philadelphia Mayor Michael Nutter and Charles H. Ramsey, Philadelphia Police Commissioner.

Ramsey, the former police chief of Washington, D.C., also discussed the details of 10 assault weapons displayed at the event, similar to those used in some of the most recent mass shootings.

"If the slaughter of 20 babies does not capture and hold your attention, then I give up, because I don't know what else will," Ramsey told the crowd. "We have to pass legislation, we can't allow the legislation to get so watered down and filled with loopholes that it is meaningless and won't do anything."

Then, turning to the weapons, Ramsey said: "Look at this and tell me why any of this needs to be on the streets of our cities. ... How are you going to go hunting with something like that? If you kill something, there's nothing left to eat."

Feinstein later explained that the weapons displayed were in the lawful possession of unnamed law enforcement agencies as evidence.

Supporters face an uphill climb in a Congress filled with Republicans and moderate Democrats who support Second Amendment rights and rely on political support from the National Rifle Association and other gun groups to win reelection.

The NRA responded with a statement:

Senator Feinstein has been trying to ban guns from law-abiding citizens for decades. It's disappointing but not surprising that she is once again focused on curtailing the Constitution instead of prosecuting criminals or fixing our broken mental health system. The American people know gun bans do not work and we are confident Congress will reject Senator Feinstein's wrong-headed approach.

Regardless, Feinstein and McCarthy plan to press ahead.

Most Americans support tough new measures to counter gun violence, including banning assault weapons, according to the latest [Washington Post-ABC News poll](#). In



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the poll, 58 percent of Americans support the ban, which expired in 2004 after 10 years; 39 percent oppose it. Some 45 percent of gun-owning households also support the ban.

McCarthy, whose husband was killed and son wounded in the 1993 Long Island Railroad shooting, has reintroduced the weapons ban every year since it expired. She said her office has received much more support for her efforts since the deadly shooting in Newtown.

"The American people are on our side this time, and we do outnumber some of the people who are fighting against us this time," McCarthy said Wednesday, citing new support from parents, medical professionals and labor unions that she declined to name.

"This is different this time, people are more open to it," she added. "What we keep hearing [from voters] is [go for] the assault weapons ban, so we'll go for it."

Feinstein, who became San Francisco mayor in 1978 after the assassinations of Mayor George Moscone and Supervisor Harvey Milk, said she has voiced her displeasure with Senate Majority Leader Harry M. Reid (D-Nev.) after he [recently told a Nevada television station](#) that, given the current political environment, it [might be futile](#) to move an assault weapons ban through Congress.

Since then, Reid has sounded more open to gun control measures. "This is an issue that we're not going to run from," he told reporters Tuesday. "It's an issue we need to talk about. . . . It may not be everything everyone wants. But I hope it has some stuff in there that's really important."

House Republican leaders say they won't consider any gun-related legislation until the Senate takes action. This week, Sens. Patrick J. Leahy (D-Vt.) and Kirsten Gillibrand (D-N.Y.) unveiled plans to make gun trafficking and straw purchases a federal crime, and Sen. Frank Lautenberg (D-N.J.) relaunched plans to close a loophole in federal law that permits gun buyers to purchase weapons without a federal background check from private gun dealers and to ban high-capacity magazines holding more than 10 rounds of ammunition.

The proposals will be considered next Wednesday at a Senate Judiciary Committee hearing on gun control. Leahy, who chairs the panel, [has said he's eager to consider a wide range of proposals](#) before moving legislation through the Senate.

The last time Congress approved the federal ban on assault weapons was 1994, when Feinstein faced her toughest reelection race and McCarthy was a nurse — and registered Republican — grieving the death of her husband and helping her son recover from his wounds.

In addition to growing support for stricter gun laws, McCarthy noted that President Obama's campaign operation, recently renamed Organizing for Action, is planning to help mobilize supporters.

"I would love his e-mail list," McCarthy said of Obama's support network.

"Each of us can work as hard as we can, but unless [Obama is] out there selling it," the bill won't advance, McCarthy said. "Hopefully they learned their lessons from the health-care bill."

Scott Clement contributed to this report.

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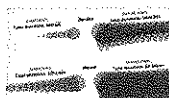
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Community Development Corporation of South Berkshire

11 December 2012

Great Barrington Board of Selectmen
Sean Stanton, Chair
Great Barrington Town Hall
Great Barrington, MA 01230

Re: Request for Proposals for the Sale and Reuse of Housatonic School

Dear Selectmen,

From the time Berkshire Hills Regional School District vacated Housatonic School, the CDC has been interested in its redevelopment. It is a gem of a building – in the best physical condition of any of the abandoned Great Barrington Schools – and it's key to the revitalization of the Village of Housatonic.

The CDC considered submitting a proposal last week that would have mirrored our previous proposal: a classic village center, smart-growth redevelopment proposal of mixed-use, housing and commercial. However, we decided not to submit a proposal when learning of Tim Newman and team's high-tech entrepreneurial business incubator concept; we were enthusiastic about this prospect and supported it wholeheartedly. We were disappointed that the concept was unable to secure financing.

Although there has been some vocal opposition to redeveloping the Housatonic School for housing, it belies reality: (1) we have a tremendous need for rental housing that is affordable to working families; (2) the place for creating more housing is in our village centers, not in carving up our farms and open space; (3) the sheer cost of rehabilitating the building up to code and dealing with the environmental issues will, in all likelihood, require significant public money. It's neigh impossible for the private sector to make this level of investment; particularly at a scale that is appropriate for the Village.

Historic Tax Credits combined with affordable housing development subsidies can crack this financial nut and, in the process, produce up to 6,000 square feet of new commercial space. This space could house a dozen or more new businesses in the

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01230
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center of Housatonic, creating a spark for further private investment in the village center. This is typically how revitalization begins; with a spark. Mixed-use housing and commercial is *the* quintessential smart growth redevelopment for village and town centers. It could bring a second life to Housatonic School that would remain an asset for the Town in perpetuity.

We would welcome the opportunity to explore with the Town different redevelopment options for Housatonic School that would be both revitalizing for the Village and financially feasible. Please let us know if there is any interest on the Board in beginning a dialogue to this end.

Sincerely,

A handwritten signature in cursive script, appearing to read "Timothy Geller".

Timothy Geller
Executive Director

Real Property Dispositions

For any disposition of real property, regardless of value, you are required to declare the property available for disposition and determine the value of the property, and, if you dispose of the property for less than the value determined, you must post a notice in the *Central Register* explaining the reasons for your decision and disclosing the difference between the value and the price to be received.¹¹¹ If the value of the property exceeds \$25,000, you must solicit proposals to dispose of the property. The requirement for competition is triggered by the *value* of the property, not the price your local jurisdiction expects to receive for the property.

If you are leasing space, you determine the value of the disposition by calculating the fair market value of the lease over the entire contract term. For example, if you are leasing out a portion of a municipal building for five years with a market value of \$1,000 per month, the entire contract is valued at \$60,000; therefore, it must be awarded using an advertised solicitation process.

In assessing whether and how to dispose of surplus property, consider both current and possible future needs. It is best to be systematic: develop an inventory of your local jurisdiction's property, survey department heads, and invite public comment. If you find that your local jurisdiction might need the property in the future, be sure to structure a lease term so that the property is available for use when needed.

Step 1: Declare property available for disposition and identify reuse restrictions

Before you can sell or lease property, regardless of its value, it must be declared available for disposition by the individual or body with the authority to make such a determination for your local jurisdiction. If your local jurisdiction wishes to impose any restrictions on reuse of the property, these restrictions must be specified as part of the declaration that the property is available for disposition. For example, if you are selling or leasing a surplus school building, you may not care how the new owner or lessee will use the building, as long as the building reuse is legal and conforms to local zoning

¹¹¹ Appendix B provides the website address for the online submission form for this notice, and Appendix C provides contact information for the *Central Register*.

requirements. In that case, you would not specify a reuse restriction. However, if you were leasing only part of a school building, M.G.L. c.40, §3 would require you to specify that the reuse be compatible with the functioning of the school.

Step 2: Determine the value of the property

You must determine the value of the property you propose to dispose of before you can dispose of any property. Chapter 30B requires that you determine the property's value by using procedures customarily accepted by the appraising profession as valid. You may hire an appraiser, although you are not required to do so. You may also rely on the municipal assessment of a property's value if it is current, if the municipality is assessed at 100 percent, and if the assessment is determined through valid procedures. The value of most parcels of property will likely exceed the \$25,000 threshold for advertised competition. For a lease, you may use market rent data, or even advertised rental rates, if the number of similar properties on the market is sufficient to determine the lease value.

Step 3: Develop the solicitation

If the value of the property exceeds \$25,000, you must solicit proposals. Your solicitation provides interested parties with the information they need to decide whether they want the property you are selling or leasing and to submit a responsive proposal. The major components of a real property disposition solicitation are as follows:

- description of the property and interest in the property you plan to sell or lease (the "property description") and any reuse restrictions,
- evaluation criteria,
- rule for award,
- proposal submission requirements, and
- the contract terms and conditions.

Property description. The property description must be detailed enough for interested parties to understand what you are offering. Be sure to identify reuse restrictions established by your local jurisdiction. If the property is being offered for sale, include a reference to a deed or survey. Also identify in the property description the buildings and structures included in the disposition and any restrictions on their use, such as

deed restrictions. Drawings, plot plans, or other relevant documents should either be appended to the specifications or incorporated by reference.¹¹² The notice must state the terms of the disposition, including whether it is a sale or lease. If it is a lease, state its duration and whether utilities will be included in the lease price or whether they must be paid separately by the lessee.

Evaluation criteria. Indicate how you will select a proposal from among the competing proposals. The process is similar to developing evaluation criteria for supplies or services (described in Chapters 4 and 5). You should establish:

- criteria to evaluate *responsiveness* (whether the proposer agrees to meet your terms and the proposal contains all the required documents and forms properly completed) and *responsibility* (whether the proposer has the capability, integrity, and reliability to perform under the contract);
- *comparative criteria* if you decide that you want to weigh the relative merits of proposals rather than selecting the responsive and responsible proposal that offers the best price; and
- a method to evaluate *prices*.

Note that although Chapter 30B requires proposals, you have the discretion to structure your solicitation so that it is, in effect, an IFB. If your objective is simply to dispose of property that you do not need, you should sell the property to the proposer offering the highest price. In this instance, your solicitation should set out simple criteria and award the contract to the qualified proposer offering the highest price for the property. Your criteria might include:

You may establish any rating scheme that preserves open and fair competition, keeps proposers on a common footing, and allows manageable and meaningful comparisons. You have the option to use the same rating categories that are used in Chapter 30B RFPs for supplies and services: highly advantageous, advantageous, not advantageous, and unacceptable. However, you are not required to do so.

¹¹² You can incorporate a document by reference in your specifications. Describe the document, and indicate where the document is located and how it can be obtained.

- a proposal deposit requirement to ensure that only serious proposers participate (a successful proposer that fails to close on the deal would forfeit the deposit),
- evidence of the proposer's ability to obtain financing, and
- best price.

You should inform proposers how you will determine the best price. For example, in a multi-year lease, specify whether proposers may propose level monthly payments over the term, or if they may propose escalating rents for each year of the lease. If rent escalators may be proposed, you should state how you will calculate the present value of the rental payments and include the formula in the solicitation. To simplify lease price comparisons, it is helpful to provide a standard price form for all proposers to complete.

If you are interested in promoting a public purpose and price is less important, you will have to carefully think through what you want and how you will evaluate it. The box on the next page presents information on dispositions to promote public purposes.

Rule for award. Your solicitation should contain a clear rule for award stating how the winning offer will be selected. For example, if you plan to select the highest-priced offer meeting your evaluation criteria, your rule for award might be stated as follows:

The highest-priced proposal from a responsive and responsible proposer will be selected.

If you plan to weigh offers from responsive and responsible proposers, your rule for award might be stated as follows:

The most advantageous proposal from a responsive and responsible proposer, taking into consideration price and all other evaluation criteria set forth in the solicitation, will be selected.

If, when leasing surplus real property, your objective is to promote a public purpose such as an affordable day care center, you may award a fixed-rent contract to the responsive and responsible proposer that meets your evaluation criteria. Thus, your rule for award would not include price as a selection factor; for example:

The most advantageous proposal from a responsive and responsible proposer, taking into consideration all evaluation criteria set forth in the solicitation, will be selected.

The box below contains additional information about real property dispositions to promote public purposes.

Real Property Dispositions to Promote Public Purposes

Your local jurisdiction may like to offer property for lease or sale in order to promote a public purpose rather than to raise revenue. Based on long-standing interpretations of the Massachusetts State Constitution, if you intend to dispose of real property for less than its fair market value, you must define a valid public purpose to be achieved. Individuals or private organizations may realize incidental benefits from a disposition of public property, but the primary purpose must be to promote the public welfare. You must structure an open, fair, and competitive disposition process to accomplish your public purpose.

If you dispose of the property for less than the fair market value, you must post a notice in the *Central Register* explaining the reasons for your decision and disclosing the difference between the property value and the price to be received. To be consistent with its purpose, this notice should be published prior to entering into a binding agreement to dispose of the property.

Example 1: Affordable day care. Your local jurisdiction has a shortage of affordable day care and you decide to lease available space to a day care provider. Since the primary objective of this disposition is not to obtain the maximum amount of rent, you set a fixed rent and specify the lease terms, such as those for insurance, utilities, and maintenance. You require all proposers to meet requirements such as staff training and experience, staff/child ratio, number of children from low-income families to be served, parent participation on governing board, nutrition programs, and hours of operation. You then develop evaluation criteria to choose the proposal that best meets your objective of providing high-quality, affordable day care. For example, you might require proposers to submit a sliding fee scale based on family income, and select the responsive and responsible proposal offering the lowest fees to the maximum number of families in need of affordable day care.

Example 2: Affordable housing. You decide to create affordable housing by dividing surplus land into lots for sale to low-income or moderate-income purchasers. You specify qualifications for purchasers, including maximum income and asset limitations, and determine the methods you will use to verify these qualifications. You restrict the use of the property and the profit that can be realized by the resale of the property to ensure that the plan meets its objective of creating and preserving affordable housing and does not result in a windfall profit to any individual. You create a fair and accountable method for proposal selection. You could, for example, establish a set price for each lot, advertise for proposals from eligible families and individuals, and use a public lottery to select winners from among the responsive and responsible proposals.

Proposal submission requirements. Your solicitation should state the rules for proposal submission. Specify when (date and time) and where sealed proposals must be delivered, how proposal packages should be marked, and how proposers may correct, modify, or withdraw proposals. If the disposition is a lease, include any options to renew or extend the lease. State that the selected proposer will be required to submit a disclosure of beneficial interests to DCAM, as required by M.G.L. c.7, §40J, and include any standard forms proposers must submit.

Price and non-price proposals need not be submitted separately. Unlike the Chapter 30B RFP requirements for supplies and services, the Chapter 30B requirements for real property transactions do not require separate submissions of price and non-price proposals. Moreover, real property proposals, including price proposals, are not confidential after they are opened.

Contract terms and conditions. Any terms and conditions you will require in the agreement must be specified in the solicitation and in the contract, including the terms of any renewal, extension, or purchase options. It is important to note that Chapter 30B does not limit the length of real property contracts. (The Chapter 30B majority vote requirement for supply and service contracts exceeding three years¹¹³ does not apply to Chapter 30B real property contracts.) However, there may be other statutory or local restrictions that apply to your real property contracts. For example, M.G.L. c.40, §3 limits towns to public building leases of 30 years and leases of school houses in use as schools to 25 years. A Massachusetts Appellate Court decision affirmed a Superior Court ruling that held that an automatic renewal clause on the same terms that exceeded the limit violated M.G.L. c.40, §3.¹¹⁴ Your legal counsel can advise you regarding restrictions that may apply to your local jurisdiction's real property transactions.

¹¹³ M.G.L. c.30B, §12(b).

¹¹⁴ *Comets Community Youth Center v. Town of Natick*, 2000 Mass. Super. LEXIS 546 (Middlesex Sup. Ct. 2000).

The box on the next page contains information about contract terms and conditions for real property dispositions.

Real Property Dispositions: Contract Terms and Conditions

Sales. If you are selling real property, have your attorney draft any terms that you will require to be incorporated into the purchase and sale agreement. Include any mandatory purchase terms in the solicitation. Require a certification of tax compliance by the purchaser (M.G.L. c.62C, §49A) and a disclosure of beneficial interests (M.G.L. c.7, §40J).

Leases. If you are disposing of property by lease, mandatory lease terms must be spelled out in the solicitation. A typical lease should:

- a. name the parties to the lease and the responsible parties to receive any notices under the lease;
- b. incorporate by reference the proposal chosen, including a detailed description of the leased property;
- c. specify the duration of the lease, including any renewal, extension, or other options. If the lease will include a renewal option, you must specify how the rent will be determined for the renewal period (you are not required to retain sole discretion to exercise options in real property agreements as you are for supply and service contracts);
- d. identify the payment terms, including when payments are due;
- e. spell out all of the responsibilities and obligations of the parties for maintenance, cleaning, utilities, rubbish disposal, snow removal, liability and casualty insurance, and other requirements;
- f. specify that lease amendments must be in writing and signed by individuals authorized to contract on behalf of your local government;
- g. prohibit assignment or subletting without written approval;
- h. specify what constitutes cause to terminate the lease, what notice must be provided prior to termination, and what opportunity must be granted to correct any problem;
- i. prohibit any activity that would constitute a violation of the conflict of interest law (M.G.L. c.268A);
- j. specify that the lease constitutes the entire agreement and that there are no agreements other than those incorporated therein; and
- k. require a certification of tax compliance by the lessee (M.G.L. c.62C, §49A) and a disclosure of beneficial interests (M.G.L. c.7, §40J).

Step 4: Advertise for proposals

You must advertise for proposals in a newspaper with a circulation sufficient to inform the people of the affected locality.¹¹⁵

The advertisement must be published at least once a week for two consecutive weeks before the day you selected for opening of proposals. The last publication

must occur at least eight days before the proposal opening. You may, of course, advertise in more newspapers, in newspapers outside your area, and more frequently.

The advertisement must specify the geographical area, the terms and conditions of the proposed transaction, and the time and place for submission of proposals and awarding of the contract. It must also state where and when prospective proposers may obtain a copy of the solicitation.

If the proposed disposition involves more than 2,500 square feet, an advertisement must also be published, at least 30 days before the opening of proposals, in the *Central Register*, which is published by the Secretary of the Commonwealth.¹¹⁶

You may inform potential proposers, including brokers and developers, of the availability of the solicitation. Be careful to avoid favoritism or the appearance of favoritism.

You can contract with a broker to help dispose of property. The broker's job will be to show the property and encourage the submission of sealed proposals on the due date. Your contract with the broker is subject to Chapter 30B.

Advertise where you will maximize exposure to potentially interested parties. For example, if you are offering to lease office space, you will probably reach more potential lessees by advertising in the classified section under "office space" rather than advertising in the legal notices section.

¹¹⁵ M.G.L. c.30B, §16(d).

¹¹⁶ Appendix B provides the website address for the online submission form for this advertisement, and Appendix C contains contact information for the *Central Register*.

Step 5: Distribute the solicitation

The solicitation documents must be made available on an equal basis to all who request a copy. You may inform potential proposers, including brokers and developers, of the availability of the solicitation. Keep a record of the names, email addresses, telephone numbers, and fax numbers of everyone who has received the documents. If you later issue an addendum to the solicitation, send the addendum to everyone who has received the solicitation. To avoid misunderstandings or protests, you may want to require proposers to acknowledge in writing their receipt of each addendum. Also, if proposers are likely to require additional time to respond to the addendum, extend the proposal due date and opening.

Step 6: Open and evaluate proposals

Proposals must be opened in public at the time and place specified in the solicitation. Chapter 30B affords no confidentiality to real property proposals. You should record the name of each proposer and the proposal price. The proposals become public information when they are opened.

You must evaluate the proposals using only the criteria you identified in the solicitation. If your solicitation states that you will make an award to the responsive and responsible proposer who offers the best price (in essence, a bid process), you may simply identify the highest-priced proposal, and then evaluate that proposal's responsiveness and responsibility against the quality requirements specified in the solicitation. If you determine that a proposal is not responsive or responsible, reject it and proceed to evaluate the next highest proposal.

If your solicitation states that you will evaluate proposals using comparative evaluation criteria, it will usually be most efficient to look first at the responsiveness and responsibility of the proposals and reject any you find to be not responsive or not responsible. Then evaluate all the remaining proposals on both your comparative criteria and price; prepare written evaluations; and decide which proposal best meets the needs of your local jurisdiction, considering the comparative criteria and price.

If you determine that it is not in the best interest of your local jurisdiction to award the contract, you may choose to cancel the proposal process.¹¹⁷ You may do so before or after you open and evaluate proposals. However, once you have executed a contract, you will not be able to cancel the transaction.

Step 7: Submit disclosures

You must submit the name of the selected proposer and the amount of the transaction to the *Central Register*, which is published by the Secretary of the Commonwealth.¹¹⁸ If you intend to dispose of the property for less than the value determined in Step 2, your *Central Register* notice must explain the reasons for your decision and disclose the difference between the value and the price to be received.¹¹⁹ To be consistent with its purpose, this notice should be published prior to entering into a binding agreement to dispose of the property.

Also, M.G.L. c.7, §40J requires disclosure of all beneficial interests in real property acquired or disposed of by a public agency. The selected proposer's disclosure of beneficial interests must be filed with DCAM. No contract to lease or sell property, and no renewal or extension of such agreement, is valid until the seller or lessor files this form with DCAM.¹²⁰ An updated disclosure form must be filed within 30 days of any change in beneficial interests during a lease term.

Step 8: Execute the contract

If you are selling real property, have your legal counsel draft a purchase and sale agreement that incorporates all of the mandatory terms and conditions required by the solicitation. If you are disposing of the property by lease, execute a lease which incorporates all the terms and conditions stated in the solicitation.

¹¹⁷ See *Mangano v. Town of Wilmington*, 51 Mass. App. Ct. 857 (2001).

¹¹⁸ M.G.L. c.30B, §16(f). Appendix B provides the website address for the online submission form for this disclosure, and Appendix C contains contact information for the *Central Register*.

¹¹⁹ M.G.L. c.30C, §16(g).

¹²⁰ Appendix B contains a form for this purpose; Appendix C provides contact information for DCAM.

Step 9: Retain records

You must maintain a file of all written documents required by Chapter 30B for a period of six years from the date of final payment under the contract. These documents include the following:

- the declaration that property is available for disposition,
- the solicitation documents and any amendments,
- the public advertisement,
- all *Central Register* notices,
- all proposals received,
- evaluation materials,
- a copy of the disclosure of beneficial interests, and
- the signed purchase and sale agreement or lease.

Emergencies

If an emergency arises and the time required to advertise for real property proposals would endanger the health or safety of people or their property, you may shorten the advertising period or waive it completely. Simple administrative inconvenience will not suffice as a justification for invoking the emergency provisions of Chapter 30B; a genuine emergency must exist. If you have reason to know in advance that a tenant will be vacating a facility, and you fail to advertise in advance, you will not be able to justify using the emergency provisions for an unadvertised, short-term rental to avoid the risks presented by an unoccupied building. Note that the right to waive or shorten the required procedures in an emergency applies only to the advertising requirement; even in an emergency, all other requirements continue to apply.

If you invoke this provision, you must publish a notice in the *Central Register* at the earliest opportunity stating the reason for declaring the emergency.¹²¹

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¹²¹ Appendix B provides the website address for the online submission form for this notice, and Appendix C provides contact information for the *Central Register*.

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Intragovernmental and Intergovernmental Dispositions

Intragovernmental real property transactions, such as the transfer of use or control of property from one department to another department within a single city or town, are not subject to Chapter 30B. However, intergovernmental real property transactions, such as the sale of land by one local government to another local government, are subject to some Chapter 30B requirements.¹²³ If you intend to dispose of real property to the federal government, the Commonwealth, another state, a county, or another local jurisdiction, you must first declare the property available for disposition, identify reuse restrictions, and determine the property value. If you are going to dispose of the property for less than the determined value, you must publish a notice in the *Central Register* explaining the reasons for your decision and disclosing the difference between the value and the price to be received.¹²⁴

¹²² Appendix B contains a form for this purpose, and Appendix C provides contact information for DCAM.

¹²³ M.G.L. c.30B, §16(i).

¹²⁴ Appendix B provides the website address for the online submission form for this notice, and Appendix C provides contact information for the *Central Register*.