

**TOWN OF GREAT BARRINGTON
SELECTMEN'S MEETING
MINUTES
MONDAY, JANUARY 23, 2012
6:30 P.M. – TOWN HALL**

PRESENT: STEPHEN BANNON
ANDREW BLECHMAN
ALANA CHERNILA
DEB PHILLIPS
SEAN STANTON
KEVIN O'DONNELL, TOWN MANAGER

6:30 PM - EXECUTIVE SESSION – TOWN MANAGER'S CONFERENCE ROOM

A. HEALTH CARE PLAN DESIGN (M.G.L. c.30A, sec.21(2) (3).

**B. CONTRACT NEGOTIATIONS RE: SALE OF OLD FIRE STATION
(M.G.L. c.30A, sec.21(a)6).**

MOTION: Steve Bannon to go into executive session as stated above and to reconvene in public session

SECOND: Deb Phillips

ROLL CALL VOTE:

STEPHEN BANNON – yes

ANDREW BLECHMAN – yes

ALANA CHERNILA – yes

DEB PHILLIPS - yes

SEAN STANTON - yes

VOTE: 5-0

IMMEDIATELY FOLLOWING CLOSED SESSION - PUBLIC SESSION - BOARD ROOM

1. CALL TO ORDER

Sean Stanton called the meeting to order at 7:00 P.M.

2. APPROVAL OF MINUTES:

January 9, 2012 Regular Meeting.

MOTION: Deb Phillips to approve minutes of January 9, 2012 Regular Meeting

SECOND: Steve Bannon

VOTE: 5-0

3. SELECTMEN'S ANNOUNCEMENTS/STATEMENTS:

A. CITIZEN PETITION OPENS: JANUARY 30, 2012; CLOSES FEBRUARY 8, 2012.

Kevin O'Donnell stated that citizens can put articles on the warrant by citizen petitions for the May Annual Town Meeting beginning January 30 until February 8.

Eileen Mooney asked if the time frame could be extended to be closer to Town Meeting since so many issues arise in the spring.

There was discussion about this possibility.

MOTION: Deb Phillips to extend the closing date until February 29, 2012.

SECOND: Alana Chernila

VOTE: 5-0

Andrew Blechman pointed out that February is citizen petition month in Great Barrington

Andrew Blechman asked if the 'Mini-Town Meeting' will be televised for the people who can't come.

Sean Stanton replied that they may have the ability to add one television production and he will find out.

B. BOS – DISCUSSION OF UPCOMING MEETINGS IN THE FOLLOWING MONTH.

Kevin O'Donnell said that he will bring the calendar to the Wednesday meeting to discuss.

C. DISCUSSION RE: SUPPORT OF ACTS #SB1664 AND #HB1776 – SOLAR NET-METERING CAP. (DISCUSSION/VOTE)

Kevin O'Donnell said that he included information regarding this topic in the executive summary for the Board to address.

Sean Stanton said that he does not see any down side to this.

MOTION: Andrew Blechman to express support for the increase of the solar net-metering cap

SECOND: Alana Chernila

VOTE: 5-0

4. TOWN MANAGER'S REPORT:

Kevin O'Donnell encouraged people to volunteer in the Swap Shack. Anyone who is interested should contact him.

A. RECOGNIZE MONUMENT VALLEY REGIONAL MIDDLE SCHOOL 2ND PLACE ESSAY WINNER KATHERINE SHERIDAN.

Kevin O'Donnell said that he spoke to the 6th grade class about local government and they were asked to write an essay about what they would do if they were a leader of their community. The contest was sponsored by the MMA and essays were screened by elected officials. Katherine Sheridan was awarded 2nd place in the state of Massachusetts.

Katherine Sheridan, a 6th grader from Monument Valley Regional Middle School read her essay.

Kevin O'Donnell presented Katherine and her family with a formal packet and a signed executive summary was included.

B. DIRECTION RE: SOLAR PANEL REGULATORY BY-LAW. (DISCUSSION)

Kevin O'Donnell said the Planning Board felt that they should not prepare a bylaw to regulate solar panels. Kevin said that there is not a lot regulation that the Town can impose. He has been in touch with the Town Attorney to get further clarification on the matter. Kevin told the Board that, unless they direct him differently, his staff will still prepare a bylaw even though the Planning Board does not support it.

Chris Rembold, Town Planner, said that the Planning Board approached the bylaw as a series of regulatory language and map changes. He said that the Planning Boards goal is to encourage solar development and felt a bylaw will have a reverse affect. Chris Rembold said that they need to know what the Selectmen's goal of the bylaw would be. He said that he needs confirmation on the current directive or some modification thereto.

Deb Phillips thanked the Planning Board for their work and the discussion around this. She said that there need to be clear guidelines of what the Selectmen are looking for. Deb said that guidelines can give clarity and may not be always be discouraging.

Chris Rembold said that this topic came up as a result of a proposed solar array on Seekonk Rd. in hopes that it would move to a more appropriate area. Chris said that there are two issues. One is trying to provide the opportunity for solar energy and the other is protection for land owners in areas that they expect to keep more rural.

Alana Chernila said that it seems that communities are being encouraged to create bylaws not for control, but for clarity for situations that may arise or industries that may come.

Jonathan Hankin replied that the bylaw may add clarity, but the Planning Board was not getting that message from the Board. They got the message that the Board wanted to create controls.

Sean Stanton said that something of this magnitude would affect the community greatly. He feels that giving a local incentive may be helpful and that there must be a way to encourage solar in the right areas. Sean added that industrial installations should be controlled if they are planned for a residential area.

Chris Rembold said that there are other bylaws approved by the Attorney General that regulate based on size and on location. Some are by right and others are by special permit. Chris suggested if the Board wants to proceed, they could prepare something along these lines.

He suggested soliciting community input.

Kevin O'Donnell said there is a meeting on February 27, 2012 at 6:00pm in which the Planning Board, Agricultural Commission and Energy Committee are invited to meet with the Selectboard to discuss this further.

Andrew Blechman asked if they would be able to place a moratorium on this for a year.

Kevin O'Donnell replied that he will find out if it is legal.

5. CITIZEN SPEAK TIME:

A. CLAUDIA SHAPIRO AND DANNY BELL – not present. Their attorney requested a postponement to Board's Feb. 13th meeting.

Paul Kleinwald – 578 South Main St.

Mr. Kleinwald said at the last meeting, the Board would not sign his petition to have a repeal to part of the pawn brokers by-law, until they spoke to Chief Walsh. He asked for an update.

Kevin O'Donnell said that he asked the Police Chief to speak to Mr. Kleinwald regarding this issue.

Sean Stanton said that he would like to know if the Police Chief thinks it is a good idea to repeal the by-law and would like to hear from him.

Mr. Kleinwald read the definition of "restraint of free trade" stating that it is any activity that obstructs, limits, or eliminates market competition. He said that it can take a multitude of forms and this by-law restrains free trade. Mr. Kleinwald said that pawn brokers conduct business in various locations and to conduct business he has to get a special license.

Kevin O'Donnell said that he will follow up with the Police Chief.

Andrea Panaritis said that the Board has said that the only way to stop industrial solar installations is to site public welfare and safety issues. She added that Deb Phillips made a motion in the past to engage special counsel to investigate whether the state law is intended to cover industrial installations and asked if the Board has moved on this.

Sean Stanton responded that the Planning Board chose not to access special counsel, but the Selectboard may choose to do so.

Carol Diehl – 324 Grove St., Housatonic stated that the crosswalk between Aberdale's and the Post Office in Housatonic was moved last year to a place where nobody walks. She said that the crosswalk links no destination, encourages J-walking and has no safety benefit. Ms. Diehl added that the crosswalk was not plowed last year and is not ADA accessible (she showed pictures). She asked that the Board look into why it was moved and what interests were involved.

Sean Stanton asked Kevin O'Donnell to look into it.

6. PUBLIC HEARING:

A. APPLICATION OF MARK FIRTH AND BETTINA SCHWARTZ FOR A SPECIAL PERMIT FOR A RESTAURANT AT 178 MAIN STREET, GREAT BARRINGTON, MA 01230.

(DISCUSSION/VOTE)

a. Open Public Hearing

MOTION: Deb Phillips to open public hearing

SECOND: Steve Bannon

VOTE: 5-0

b. Explanation of Project

This project is to convert the current building into a restaurant with 88 seats, a new kitchen; all adhering to ADA requirements. It was stated that the only construction needed is the addition of a ramp and a refrigerator unit on the back. All Boards have given a positive recommendation. A part of the request is a large parking lot with 28 parking spaces.

c. Speak in Favor/Opposition – None

d. Motion to Close Public Hearing

MOTION: Steve Bannon to close public hearing

SECOND: Deb Phillips

VOTE: 5-0

e. Motion re: Findings of Fact

Re: SP #794-11
Applicant(s): Mark Firth & Bettina Schwartz

A. Introduction

A Special Permit application was filed on December 6, 2011, by Mark Firth and Bettina Schwartz, 11 Chestnut Hill Road, Monterey, MA, for a special permit to operate a restaurant at 178 Main Street, Great Barrington. The proposal entails interior renovations and minor exterior alterations to an existing 4,532 square foot retail building. The Special Permit application has been filed in accordance with Sections 3.1.4 C (21) (restaurant), 9.6 (Village Center Overlay District), and 10.4 (Special Permits) of the Great Barrington Zoning Bylaw.

B. General Findings

The property is in a B2 district, and within the Village Center Overlay District (VCOD). A small portion of the rear of the lot (the extreme western portion) is in an I2 zone. The surrounding uses in this area are commercial in character, with several existing retail shops, offices, and industrial uses in the immediate area.

The lot is 0.67 acres. The footprint of the building is 2,796 square feet. The second floor is 1,736 square feet. The total area (all floors) is 4,532 square feet.

The existing building and proposed improvements meet the area, lot coverage, and setback requirements.

About 80 seats are anticipated when all renovations are complete. An additional 20 seats are contemplated outside on a terrace, eventually bringing the total capacity to 100 seats.

The VCOD provisions are triggered by the proposal for exterior changes to the structure. These are to add a garden path and small ramp along the southern side for handicapped accessibility, and widen the front porch. A walk-in cooler is planned to be attached to the east side of the rear building. This is proposed to be screened from view.

Per the VCOD regulations, the existing parking must be retained, but additional parking is not required (see §9.6.11, #2). This proposal does remove some existing pavement on the north of the site, but it is not existing parking lot; therefore removing it is not in conflict with the bylaw. Proper striping and delineation of the existing paved parking areas, including provision of handicapped spaces, will yield a total of 28 parking spaces under this plan. (Without the VCOD provision for parking, they would have had to provide 33 parking spaces for all 100 seats.)

The applicants have requested a waiver from the Special Permit requirements for a drainage plan and drainage calculations. The drainage is not a concern at this site and the existing structures are readily observable. Since there will be less impervious surface that exists now, and since there are no known stormwater issues on the site, the waiver request is reasonable.

Traffic flow into and out of the site is via a wide driveway on the south side of the property. The driveway is sufficiently wide to accommodate traffic to this site and to the Kimball Fuel site in the rear. Parking is provided on site on the south side and behind the building. Parking lanes on either side of Main Street allows for additional on street parking. Delivery trucks can adequately access the kitchen to the rear of the building.

The applicant received a favorable recommendation from the Design Advisory Committee. The Planning Board approved the Site Plan application, with conditions, and made a positive

recommendation on the Special Permit. The Board of Health also recommended in favor. The Conservation Commission determined it has no jurisdiction over this application.

C. Special Permit Criteria and Specific Findings

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

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

Consideration of the Criteria in relation to SP #794-11:

1. The proposal provides an opportunity for a new business to be added to the economic base and does not negatively impact social or community needs. The proposal fits the goals of the Great Barrington Master Plan by developing an existing building without adding burdens on town infrastructure, parking, or traffic.
2. Driveways and laneways are adequate and sight lines will not be blocked by signage or parked vehicles. There is sufficient parking available for this use. There will not be a detrimental impact on traffic flow, safety, parking, or loading.
3. The building is already served by public utilities. The proposed use will not overburden these utilities or have negative impact on other public services.
4. The proposal fits with the existing commercial character and existing uses in this area. It creatively reuses an existing historic building.
5. The proposal will not have detrimental impacts on the natural environment. The removal of pavement may actually decrease runoff volumes from the site.
6. The proposal will have a positive fiscal impact. The establishment will also contribute new revenue in the form of meal taxes and will employ several full time employees.

Specific Finding:

In consideration of the above Findings, this Board finds that there are no adverse impacts and that the benefits of the proposal outweigh any possible detrimental impacts.

D. Proposed Conditions

There are no conditions proposed on this special permit.

MOTION: Deb Phillips that the above Findings of Fact of the proposal outweighs any possible detrimental effects

SECOND: Steve Bannon

VOTE: 5-0

f. Motion re: Approval/Denial/Table

2. **MOTION:** Deb Phillips, in view of the approved Findings of Fact, move to approve Special Permit #794-11 for Mark Firth and Bettina Schwartz, to operate a restaurant at 178 Main Street, Great Barrington, in accordance with Sections 3.1.4 C(21), 9.6, and 10.4 of the Great Barrington Zoning Bylaw.

SECOND: Steve Bannon

ROLL CALL VOTE:	Steve Bannon	-	yes
	Deb Phillips	-	yes
	Andrew Blechman	-	yes
	Alana Chemila	-	yes
	Sean Stanton	-	yes

MOTION CARRIED VOTE: 5-0

- B. APPLICATION OF WOOD ANCHOR, INC. D/B/A BELL & ANCHOR, BETTINA SCHWARTZ, MANAGER FOR A NEW COMMON VICTUALLER ALL ALCOHOLIC RESTAURANT LIQUOR LICENSE AT 178 MAIN STREET, GREAT BARRINGTON, MA 01230. (DISCUSSION/VOTE)

- a. Open Public Hearing

MOTION: Deb Phillips to open public hearing

SECOND: Steve Bannon

VOTE: 5-0

- b. Explanation of Project- This project is to convert the current building into a restaurant with 88 seats, a new kitchen; all adhering to ADA requirements. It was stated that the only construction needed is the addition of a ramp and a refrigerator unit on the back. This is also to include a twenty seat seasonal outdoor dining patio located on the east side of the building.

- c. Speak in Favor/Opposition – None

- d. Motion to Close Public Hearing

MOTION: Steve Bannon to close public hearing

SECOND: Deb Phillips

VOTE: 5-0

- e. Motion re: Findings

MOTION: Deb Phillips to approve findings of fact

SECOND: Steve Bannon

VOTE: 5-0

- f. Motion re: Approval/Denial/Table

MOTION: Deb Phillips to approve the liquor license for Bell & Anchor Restaurant at 178 Main Street

SECOND: Steve Bannon

VOTE: 5-0

7. LICENSES OR PERMITS:

- A. WOOD ANCHOR, INC./BETTINA SCHWARTZ FOR 2012 ANNUAL COMMON VICTUALLER LICENSE FROM 7:00 AM – 2:00 AM AT 178 MAIN STREET, GREAT BARRINGTON, MA 01230 (DISCUSSION/VOTE)

MOTION: Deb Phillips to approve the Common Victualler license for 178 Main Street

SECOND: Steve Bannon

VOTE: 5-0

- B. THE MEAT MARKET/JEREMY STANTON FOR ONE DAY BEER AND WINE LIQUOR LICENSE FOR FEBRUARY 11, 2012 FROM 3:00 PM – 10:00 PM AT 389 STOCKBRIDGE ROAD, GREAT BARRINGTON, MA 01230 (DISCUSSION/VOTE)

“The Lonely Hearts Pig Roast” will begin at 3:00 PM. Wandering Star Brewery’s Beer from Pittsfield will be featured and tickets are \$35.00.

MOTION: Deb Phillips to approve the One Day Beer and Wine liquor license

SECOND: Steve Bannon

VOTE: 5-0

- C. GREAT BARRINGTON FISH AND GAME FOR ONE DAY BEER AND WINE LIQUOR LICENSE FOR FEBRUARY 11, 2012 FROM 11:00 AM – 6:00 PM AT THE CLUB, 338 LONG POND ROAD, GREAT BARRINGTON, MA 01230 (DISCUSSION/VOTE)

This is a children's fishing derby with prizes and a spaghetti dinner to follow.

MOTION: Deb Phillips to approve the One Day Beer and Wine license

SECOND: Steve Bannon

VOTE: 5-0

- D. GREAT BARRINGTON FISH AND GAME FOR ONE DAY BEER AND WINE LIQUOR LICENSE FOR EVERY SUNDAY FROM 2/12/12 TO 4/1/12 (TOTAL OF 8) FROM 11:00 AM- 6:00 PM AT THE CLUB, 338 LONG POND ROAD, GREAT BARRINGTON, MA 01230 (DISCUSSION/VOTE)

MOTION: Deb Phillips to approve the One Day Beer and Wine license as requested above

SECOND: Steve Bannon

VOTE: 5-0

8. NEW BUSINESS:

- A. CONFIRM TOWN MANAGER'S APPOINTMENT OF MEMBER TO THE HISTORICAL COMMISSION. (DISCUSSION/VOTE)

Kevin O'Donnell said that this will be the 7th member appointed to fill the unexpired term due to the death of Lila Parrish. Kevin said that he makes the appointment with the Boards support. He recommended Bill Nappo for the position.

MOTION: Steve Bannon to support the Town Managers appointment of Bill Nappo as the 7th member of the Historical Commission.

SECOND: Deb Phillips

VOTE: 5-0

9. SELECTMEN'S TIME:

Andrew Blechman said it is nice to see so many people attending Board of Selectmen's meetings.

10. MEDIA TIME: None

11. ADJOURNMENT:

On a motion by Deb Phillips, seconded by Steve Bannon, the Board adjourned its meeting at 8:15 P.M.

Respectfully submitted,



Cara Becker
Recording Secretary