

SELECTBOARD'S MEETING MINUTES

MONDAY, AUGUST 8, 2016

7:00 PM – REGULAR SESSION

TOWN HALL, 334 MAIN STREET

PRESENT: SEAN STANTON
STEVE BANNON
DAN BAILLY
BILL COOKE
ED ABRAHAMS - ABSENT

TOWN MANAGER, JENNIFER TABAKIN

7:00 PM - OPEN MEETING

1. CALL TO ORDER: Chairman Sean Stanton called the meeting to order

2. APPROVAL OF MINUTES:

July 11, 2016 Regular Meeting.

MOTION: Steve Bannon to approve the July 11, 2016 minutes.

SECOND: Dan Bailly

VOTE: 4-0

July 25, 2016 Regular Meeting.

MOTION: Steve Bannon to approve the July 25, 2016 minutes.

SECOND: Dan Bailly

VOTE: 4-0

3. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS:

A. General Comments by the Board.

Steve Bannon suggested that the Town Manager and Chairman decide on a date for the Town Manager's evaluation from April or May.

B. SB – Schedule Site Visits for 2 Special Permits for existing multi-family residential uses:

59-61 Taconic Avenue-Diamond Family, LLC and **16 South Street**-Dante Realty LLC

Site visit for 59-61 Taconic Avenue; August 15, 2016, 6:00PM. Site visit for 16 South Street; August 15, 2016 right after the Taconic Avenue visit.

4. TOWN MANAGER'S REPORT:

Jennifer Tabakin reported follow up on the Host Agreement between Great Barrington and Theory Wellness. They have agreed to pay the town a \$15,000 annual donation with a 6% increase. Theory has agreed to pay the equivalent to annual real estate taxes on the

building as well as personal property taxes. Theory has stated they plan to support local organizations and work with local businesses if issues should arise.

MOTION: Steve Bannon to accept the agreement negotiated between Theory Wellness and the Town Manager.

SECOND: Dan Bailly

VOTE: 4-0

Jennifer Tabakin thanked Ted Nappo for his work as a summer intern.

5. PUBLIC HEARINGS:

A. Special Permit application of Hapman Holdings, LLC, 420 Stockbridge Road #7, for work in a floodplain to construct a ground mounted solar photovoltaic array on Stockbridge Road, Assessor's Map 36, Parcel 30C, Great Barrington, MA in accordance with 9.1 and 10.4 of the Great Barrington Zoning Bylaw. (Discussion/Vote)

a. Open Public Hearing

MOTION: Steve Bannon motions to open the public hearing

SECOND: Dan Bailly

VOTE: 4-0

b. Explanation of Project;

Andrew Mankin of Crissey Farms and Barrington Brewery is proposing a 144kw solar array on the plot of land north of Barrington Brewery. There will be no elimination of woody shrubs or trees. The applicant proposes to install native, fruit bearing trees and shrubs as a food source for wildlife. This plan meets all requirements of the wetlands law. The Conservation Commission approves the plan, the Planning board supports the project, and the Board of Health has seen the plan and reported no issues. Once the project is built Crissey Farms and Barrington Brewery plan to be 75-85% energy independent.

c. Speak in Favor/Opposition- none.

d. Motion to Close Public Hearing

MOTION: Steve Bannon motions to close the public hearing

SECOND: Dan Bailly

VOTE: 4-0

e. Motion re: Findings

EXHIBIT A

FINDINGS OF FACT AND BASIS FOR DECISION

Re: Special Permit #856-16
Applicant(s): Hapman Holdings, LLC

A. Introduction

This Special Permit application was filed on July 8, 2016 by Hapman Holdings LLC (Applicant), owners of a parcel identified as 0 Stockbridge Road, Great Barrington, MA (Assessor's Map 36, Parcel 30C). The application seeks permission from the Selectboard to do work in the floodplain of the Housatonic River on the east side of Stockbridge Road, north of Crissey Farms, in order to install a small solar array that will power the adjacent existing businesses. The application has been filed in accordance with Sections 9.1 and 10.4 Great Barrington Zoning Bylaw.

The Applicant is represented by Berkshire Engineering, Inc. The plans accompanying the application were prepared by Berkshire Engineering, Inc. and are dated July 6, 2016.

B. General Findings

The Applicant is proposing to install a 144 kilowatt photovoltaic solar array on the parcel just north of the existing Barrington Brewery and Crissey Farm businesses on Stockbridge Road. The subject property is 2.18 acres. It is a conforming commercial lot with frontage on Stockbridge Road. The property lies within a B2 General Business Zone and in the Flood Plain Overlay District (FPOD). The front of the parcel is undevelopable wetland area, but the rear of the parcel, where the array is proposed, is an existing mowed meadow and gravel parking area.

The solar panels will be mounted on piers which will be screwed into the ground. The solar installation will require some regrading of the land in order to provide for a level area to install the panels. This work will take place on the outer edge of the mapped floodplain level of 691 feet (above sea level). The Applicant's Engineer states that the regrading will not result in a fill of floodplain or floodway. The regrading in fact will result in an additional 26.5 cubic yards of flood storage in this area.

The use is allowed per MGL Ch. 40A, s. 3 which states: "No zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare." The use is also allowed as an accessory use to the principal use on the adjacent property, per Zoning Section 3.2.

The Planning Board and Board of Health have made positive recommendations on the proposal. The Conservation Commission has issued an Order of Conditions permitting the project in the floodplain and the wetland buffer area. As part of that Order, the Applicant is required to restore and re-vegetate the site after construction, and is required to enhance the buffer zone with new plantings.

The proposal is in keeping with the vision and recommendations of the Master Plan in that it encourages: investment already developed areas, renewable energy, and development of otherwise underproductive real estate, which protecting or enhancing sensitive natural features and environments.

C. Floodplain Overlay District Criteria and Specific Findings

Section 9.1 of the Zoning Bylaw states:

“Any person desiring to establish any permitted use in a FPOD involving or requiring the erection of new structures and/or alteration or moving of existing structures or dumping, filling, transfer, relocation or excavation of earth materials or storage of materials or equipment shall submit an application for a special permit...”

The proposed work requires a Special Permit from the Selectboard, in order to ensure that:

Lands in the town subject to seasonal or periodic flooding shall not be used for residential or other purposes in such a manner as to endanger the health or safety of the occupants thereof, or of the public, and to assure the continuation of the natural flow pattern of the watercourses within the town in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation. It is further intended to protect, preserve and maintain the water table and water recharge areas within the town so as to preserve present and potential water supplies for the public health and safety of the residents of the town. (Great Barrington Zoning Bylaw, Section 9.1.1.)

In this case there is no residential use proposed, and there is a net increase in flood storage area.

§9.1.6 of the Zoning Bylaw requires the Special Permit Granting Authority (SPGA) to find the following in order to grant a floodplain special permit:

(1) The use would otherwise be permitted if such land were not, by operation of this section, in the Floodplain Overlay District;

Finding: Accessory structures are allowed by right and solar installations are allowed per MGL Ch. 40A, s. 3.

(2) The use of such land for the proposed purpose will not interfere with the general purpose for which such Floodplain Overlay Districts have been established.

Finding: The proposed construction will not divert or infringe flood storage or flood plow. It will not interfere with the purposes of the FPOD.

§9.1.5 requires the SPGA to ensure that the applicant provides sufficient information to determine:

(1) That the floor level of areas to be occupied by human beings as living or working space shall be at a safe elevation;

Finding: There is no habitable space proposed. All utilities, piers, panels, and electric services will be protected from flooding and constructed per the state building code.

(2) That furnaces and utilities are protected from flooding and that the structure will withstand the effects of flooding in accordance with the State Building Code;

Finding: All utilities, piers, panels, and electric services will be protected from flooding and constructed per the state building code.

(3) That the proposed construction, use or change of grade will not obstruct or divert the flood flow, reduce natural water storage or increase stormwater runoff so that water levels on other land are substantially raised or danger from flooding increased;

Finding: The application has demonstrated that the amount of cut and fill in the floodplain will result in a net gain of floodplain storage, will not obstruct flood flow, runoff, or water storage, and will not increase flood water levels on other land.

(4) That safe vehicular and pedestrian movement to, over and from the premises is provided in the event of flooding; and

Finding: Access to the property is above flood level.

(5) That the proposed methods of drainage and sewage disposal are approved by the Board of Health and will not cause pollution or otherwise endanger health in the event of flooding.

Finding: Not applicable.

§9.1.7 states that special permits for work in the floodplain issued under this section may be subject to such conditions as the SPGA deems necessary in the interests of the public health, safety and welfare. The burden of proving that the proposed use will not endanger the public health and safety of the occupants or the public shall rest upon the applicant.

Finding: There is no need for any conditions of this nature.

§9.1.8 requires certification by a professional engineer, registered and licensed in the Commonwealth of Massachusetts, to demonstrate that proposed floodway encroachments shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood.

Finding: Not applicable; the proposed work is not within the delineated floodway.

§9.1.9 states that granting of a special permit under this section by the SPGA does not in any way indicate compliance with the provisions of the Wetlands Protection Act, MGL c. 131, § 40, which provides, among other things, that no person shall remove, fill, dredge or alter any swamp, creek, river, stream, pond or lake or any land subject to flooding, except with a written permit from the Conservation Commission.

Findings: Applicant received an Order of Conditions from the Conservation Commission, as required by the Wetlands Protection Act.

D. General Special Permit Criteria and Specific Findings

§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 #855-16:

Per §10.4.2 of the Zoning Bylaw, granting of any special permit requires a 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.” The six criteria and the Board’s considerations in relation each are detailed below:

1. Social, economic, or community needs which are served by the proposal.
 - The proposed work will support an existing businesses and employers

and improve the overall value of the subject property. The proposal is in keeping with the goals of the Master Plan.

2. Traffic flow and safety, including parking and loading.
 - The proposed work has no impact on traffic flow or safety.
3. Adequacy of utilities and other public services.
 - The proposed work has no impact on public services.
4. Neighborhood character and social structures.
 - The proposed work improves the property and enhances the wetland buffer zone.
5. Impacts on the natural environment.
 - The proposed work results in a net gain of flood storage and will not impact flood flows, and enhances the wetland buffer zone.
6. Potential fiscal impact, including impact on town services, tax base, and employment.
 - The proposed work will have a positive fiscal impact.

Finding: In consideration of the above Findings, this Selectboard finds that the benefits of the proposal outweigh any possible detrimental impacts.

E. Proposed Conditions – none.

MOTION: Steve Bannon moved to approve the Findings of Fact for Special Permit #856-16 for Hapman Holdings, LLC, as submitted and referenced as Exhibit A.

SECOND: Dan Bailly

ROLL CALL VOTE:

DANIEL BAILLY – yes

SEAN STANTON – yes

BILL COOKE – yes

STEVE BANNON – yes

VOTE: 4-0

MOTION PASSED

f. Motion re: Approval/Denial/Table

MOTION: Steve Bannon moved to approve in view of the approved Findings of Fact, Special Permit #856-16 for Hapman Holdings, LLC, 420 Stockbridge Road #7, for work in a floodplain to construct a ground mounted solar photovoltaic array in the floodplain on Stockbridge Road, Map 36 Parcel 30C, Great Barrington, MA, in accordance with Sections 9.1 and 10.4 of the Great Barrington Zoning Bylaw.

SECOND: Dan Bailly

ROLL CALL VOTE:

DANIEL BAILLY – yes

SEAN STANTON – yes

BILL COOKE – yes

STEVE BANNON – yes

VOTE: 4-0

MOTION PASSED

6. LICENSES OR PERMITS:

A. **Continued** - Catherine A. Tzelis/d/b/a Ena at the Cove for 2016 Annual Common Victualler License 109 Stockbridge Road. (Discussion/Vote)
Tabled until applicant is present.

B. **Continued** - Christine Heaton/Black Sheep Brewing Company d/b/a Big Elm Brewing for One Day Beer and Wine Liquor License for September 11, 2016 from 10:00 am – 4:00 pm at the Great Barrington Fairgrounds, 659 South Main Street.
(Discussion/Vote)

MOTION: Steve Bannon moved to approve the One Day Beer and Wine Liquor License.

SECOND: Dan Bailly

VOTE: 4-0

C. Robin Vickery/Great Barrington Fish and Game for One Day Beer and Wine Liquor License for August 28, 2016 from 11:00 am – 7:00 pm at the Great Barrington Fish and Game Clubhouse, 338 Long Pond Road for a Benefit “Family Style BBQ/Picnic”.
(Discussion/Vote)

MOTION: Steve Bannon moved to approve the One Day Beer and Wine Liquor License.

SECOND: Dan Bailly

VOTE: 4-0

D. Amy Rudnick/Fairview Hospital for the Fairview Hospital Gala, as follows:
- for One Day Temporary Weekday Entertainment License for Saturday, September 24, 2016 from 6:00 – 8:00 PM at the Gazebo, Town Hall Green. (Discussion/Vote)

**Steve B recuses himself from this vote due to that Fairview Hospital is his employer.

MOTION: Dan Bailly moved to approve the One Day Beer and Wine Liquor License.

SECOND: Bill Cooke

VOTE: 3-0

- for One Day All Alcoholic Liquor License for Saturday, September 24, 2016 from 6:00 – 8:00 PM at the Gazebo, Town Hall Green. (Discussion/Vote)

MOTION: Dan Bailly moved to approve the One Day Beer and Wine Liquor License.

SECOND: Bill Cooke

VOTE: 3-0

E. Cara Davis/Construct for permission to use Town roads for the Annual Walk to Prevent Homelessness on Sunday, September 25, 2016 at 1:00 PM to start at Berkshire South and end at the Great Barrington Fairgrounds. (Discussion/Vote)

MOTION: Steve Bannon moved to approve.

SECOND: Dan Bailly

VOTE: 4-0

F. Patty Spector/Josh RunAgroundTriathlon for permission to use Town Roads for the 40th Annual Great Josh Billings RunAground on Sunday, September 18, 2016. (Discussion/Vote)

Lou Oggiani spoke for applicant, Patty Spector.

MOTION: Steve Bannon moved to approve the use of town roads for the annual Josh Billings.

SECOND: Dan Bailly

VOTE: 4-0

7. NEW BUSINESS:

A. SB – Appointment of Election Officers. (Discussion/Vote)

** Dan Bailly Recuses himself from the vote, a family member is on the list.

MOTION: Steve Bannon moved to approve the appointment of election officers.

SECOND: Bill Cooke

VOTE: 3-0

B. SB – Appointment of member to the GB Cultural Council. (Discussion/Vote)

Scott Pezza is the applicant for the vacancy on GB Cultural Council.

MOTION: Steve Bannon moved to appoint Scott Pezza.

SECOND: Dan Bailly

VOTE: 4-0

C. SB- Accept Covenant on the Wheeler Farmstead Property Pursuant to the CPA Grant Agreement. (Discussion/Vote)

** Steve Bannon recuses himself because he is a member of Great Barrington's Historical Society.

MOTION: Dan Bailly moved to accept Covenant on the Wheeler Farmstead Property pursuant to CPA Grant Agreement.

SECOND: Bill Cooke

VOTE: 3-0

8. CITIZEN SPEAK TIME:

Mary Elling Bowling Santinelle spoke on behalf of her mother Maddie Bowling, both of whom are California residents. Mary's family member is buried in the Great Barrington cemetery and has continued to find animal (particularly dog) feces on the gravesite. Her

concern is of the allowance of unleashed dogs in the cemetery despite the signage stating that all dogs must be leashed and of police patrolling the area.

Sean Stanton asks Mary if she is asking the Board to ban dogs from the cemetery. Mary answers that she is not asking for the banning of dogs completely just that the leash law is enforced.

Sean Stanton states that dogs off leash is inappropriate and against the rules but he is not for expending more resources to do more to enforce this issue in Great Barrington.

Michelle Loubert, Housatonic. Michelle read the law in regards to dogs and leashes.

Jennifer Tabakin states that through this meeting we have learned the importance of this issue and it will raise the awareness of the community.

9. SELECTBOARD'S TIME: none.

10. MEDIA TIME: Eileen Mooney of the Newsletter inquired about the report on the Castle Street Fire Station.

No report as of now.

11. ADJOURNMENT:

MOTION: Steve Bannon moved to go into Executive Session at 8:05 PM

Re: Pending litigation matter – Housatonic Water Works rate increase petition to Department of Public Utilities, D.P.U. No. 15-179 [M.G.L. c.30A, sec. 21(a)(3)] and not to reconvene into regular session.

SECOND: Dan Bailly

ROLL CALL VOTE:

DANIEL BAILLY – yes

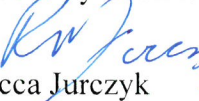
SEAN STANTON – yes

BILL COOKE – yes

STEVE BANNON – yes

VOTE: 4-0

Respectfully Submitted,


Rebecca Jurczyk
Recording Secretary

9/14/16