

**TOWN OF GREAT BARRINGTON  
SELECTBOARD'S MEETING  
MINUTES  
MONDAY, SEPTEMBER 8, 2014  
7:00 P.M. - REGULAR SESSION  
TOWN HALL**

**PRESENT:** ED ABRAHAMS  
DANIEL BAILLY  
STEPHEN BANNON  
DEB PHILLIPS  
SEAN STANTON – not present

JENNIFER TABAKIN, TOWN MANAGER

**1. CALL TO ORDER:**

Deb Phillips called the meeting to order at 7:00 PM

**2. APPROVAL OF MINUTES:**

August 11, 2014 Regular Meeting

**MOTION:** Steve Bannon to approve the August 11, 2014 minutes as amended

**SECOND:** Dan Bailly

**VOTE:** 4-0

August 25, 2014 Regular Meeting

**MOTION:** Steve Bannon to approve the August 25, 2014 minutes

**SECOND:** Dan Bailly

**VOTE:** 4-0

**3. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS:**

**A. GENERAL COMMENTS BY THE BOARD.**

Ed Abrahams said that he was impressed that his sewer bill was put in his mailbox at Town Hall, thus saving the stamp. He pointed out that this shows that Town employees are constantly thinking about ways to save money.

**4 TOWN MANAGER'S REPORT:**

**A. FOLLOW UP ITEMS**

Jennifer Tabakin said that there will be a joint meeting with the Conservation Commission and Planning Board. A representative from the EPA will be present taking notes.

**- TRANSPORTATION SURVEY UPDATE.**

Jennifer Tabakin handed out the responses to the transportation survey. Responses will be accepted through 10/5/14. The survey was sent through survey monkey and the Chamber of Commerce to the large organizations. This information will be given to BRTA.

**- TOWN BUILDING USE PROCEDURES.**

Jennifer presented a summary of the updates to the Town Building Use Procedures along with her recommendations. Some of these updates include:

There is now the opportunity to reserve space up to a year before an event. (Instead of 3 months)

Verbiage has been added regarding insurance liability.

Verbiage has been added about liquor licenses and the need for TIPS training.

There is a section about private rentals.

There is new pricing for the use of the Housie Dome.

Ed Abrahams asked if a non-profit wants to present at the Library, will they have to pay.  
Jennifer Tabakin responded that there would be no cost if they are library or town sponsored.

Steve Bannon said that he feels that the prices are exorbitant and suggested the coats be reconsidered.

Deb Phillips asked the Selectboard to think about if they feel the Town, in its tax rate, should absorb the cost of the non-profit use of the buildings.

Ed Abrahams asked that some of these items be merged with the current Library Building Use Policy.  
Jennifer Tabakin said that she review this. .

The Selectboard asked that the Town Manager provide a list of groups who have used town buildings in the past and what they have paid. .  
There will be further discussion.

**\* - TOWN COMMENTS ON BRPC STUDY ON TRAIN STATIONS.**

Jennifer Tabakin read some of the background regarding this study.  
The results indicate that the best places to put the stations are in Pittsfield, Lee and Great Barrington.  
Jennifer read the list of proposed stops in Great Barrington.  
Deb Phillips said that long term parking and connecting transportation should be a consideration when thinking about these stations. Deb also suggested the Kimball property for a stop.  
Jennifer said that some of these 'stations' are privately owned; which has not been addressed.  
She added that the study also did not address linkages to Peter Pan busses or airport transportation.  
The Town Manager will provide a letter for the Selectboard to sign as per this conversation.

**- NEW ENGLAND LOG HOMES PROJECT UPDATE.**

Tim Geller, Executive Director of CDC, gave an update regarding this project.  
He stated that bioremediation has begun, the Factor was applied and due to a wet July, the Factor was not plowed as it should have been. This resulted in an odor. There were complaints and an order of compliance was issued on 7/14 to stop work. A plan to resolve the issue was submitted on 7/15/14; this plan was to plow. Unfortunately, the dry time that would have been ideal for plowing was during the non-compliance order so nothing could be done. On 8/4/14, there was an order issued to hire an odor scientist. This was done and a new plan was submitted on 8/27/14. The plan was approved. More odor samples have been taken and plowing will begin. The odor went away as soon as the area dried. 'Farming' will take place through November until there is a freeze.

- CAPITAL PROJECTS UPDATE- this item was not discussed
- UNION CONTRACT UPDATE – this item was not discussed

**5. PUBLIC HEARING:**

- A. BERKSHIRE NATURAL RESOURCES COUNCIL, 20 BANK ROW, PITTSFIELD, MA FOR WORK IN THE FLOODPLAIN AT 433 STOCKBRIDGE ROAD (MAP 29, LOT 4), GREAT BARRINGTON, MA IN ORDER TO IMPROVE THE ACCESS TO THE PROPERTY IN ACCORDANCE WITH SECTIONS 9.1 AND 10.4 OF THE GREAT BARRINGTON ZONING BYLAW. (DISCUSSION/VOTE)

- a. Open Public Hearing

MOTION: Steve Bannon to open the public hearing

SECOND: Dan Bailly

VOTE: 4-0

- b. Explanation of Project

Narain Schroeder explained the project. The goal is to improve access to the trail. Fill will be added to allow a cars length grade to Route 7. The parking area will be made smaller.

- c. Speak in Favor/Opposition : none

d. Motion to Close Public Hearing  
MOTION: Steve Bannon 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 #834-14  
Applicant(s): Berkshire Natural Resources Council

A. Introduction

This Special Permit application was filed on August 4, 2014 by Berkshire Natural Resources Council (BNRC), 20 Bank Row, Pittsfield, MA. The Special Permit application seeks permission from the Great Barrington Selectboard to do work in the floodplain to improve the driveway access to its conservation property at 433 Stockbridge Road (Map 29, Lot 4), Great Barrington, MA. BNRC owns the property. The application has been filed in accordance with Sections 9.1, and 10.4 Great Barrington Zoning Bylaw.

B. General Findings

BNRC purchased this property on the west side of Stockbridge Road in 2012. It is located across from what is now Chelsea & Co. retail store. A system of walking trails loops through the property and provides views of the Housatonic River. A 0.4-acre gravel parking area currently exists on site, used by the previous owners to park freight trailers and containers. The property is accessed by a single driveway, which slopes steeply down into the site from Stockbridge Road (Route 7). For cars leaving the site, there is limited sight distance to see southbound traffic on Stockbridge Road.

BNRC proposes to take gravel from portions of the existing parking area and use it to build up the elevation of the driveway, in order to provide a level landing for cars and thereby improve sight distance. The overall size of the parking area will be reduced, and flood storage area slightly increased. Details are included in the proposal.

The work proposed to build up the driveway is classified as filling in a floodplain. The work is therefore subject to Section 9.1 of the Zoning Bylaws, and it 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, since there is more gravel being removed from the parking area than is being added to the driveway, there is a net increase in flood storage area. The Conservation Commission reviewed a Request for Determination of Applicability and determined that no further permitting is necessary under the Wetlands Protection Act. The Planning Board and Board of Health have both made positive recommendations on the proposal.

The proposal is in keeping with the vision and recommendations of the Master Plan: It cleans up an abandoned parcel in a gateway area, preserves natural landscapes, and scenic views; it

provides open space and recreation along the Housatonic River; and, it improves traffic safety. The application includes a narrative in this regard.

C. Floodplain Overlay District Criteria and Specific Findings

§9.1.6 of the Zoning Bylaw requires the Special Permit Granting Authority (SPGA), in this case the Selectboard, 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: The use as a conservation area is allowed as of right.

(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: Conservation and open space preserves floodplain and promotes the general purposes of the overlay district.

§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 are no habitable areas proposed; this is not applicable.

(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: There are no utilities proposed; this is not applicable.

(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: If the site is in full flood stage, it will not be in use; this is not applicable.

(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: There is no drainage or sewer disposal required or proposed; this is 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: The Selectboard does not see the 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: The proposed work is not within the delineated floodway; this is not applicable.

§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 has filed for and received permits 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 #832-14:

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 improve the appearance and safety of the property, and increase its accessibility to the general public. The proposal is in keeping with the goals of the Master Plan.

2. Traffic flow and safety, including parking and loading.
  - The proposed work will improve site lines and increase safety. The proposed work has received a permit from Mass DOT.
3. Adequacy of utilities and other public services.
  - The proposed work improves access in the case of an emergency. There are no utilities.
4. Neighborhood character and social structures.
  - The proposed work improves and beautifies the site.
5. Impacts on the natural environment.
  - The proposed work will decrease the size of the parking area and convert it to a natural state. The proposed work results in a net gain of flood storage and will not impact flood flows.
6. Potential fiscal impact, including impact on town services, tax base, and employment.
  - The proposed work will have little 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 to approve the Findings of Fact for Special Permit #834-14 for Berkshire Natural Resources Council, as submitted and referenced as Exhibit A.

**SECOND:** Dan Bailly

**ROLL CALL VOTE:**

Deb Phillips – yes

Steve Bannon – yes

Dan Bailly – yes

Ed Abrahams – yes

**VOTE: 4-0**

**Motion passed**

f. Motion re: Approval/Denial/Table

**MOTION:** Steve Bannon that in view of the approved Findings of Fact, move to approve Special Permit #834-14 for Berkshire Natural Resources Council to do work in the floodplain to improve the driveway access to its property at 433 Stockbridge Road (Map 29, Lot 4), Great Barrington, MA, per Sections 9.1 and 10.4 of the Great Barrington Zoning Bylaw.

**SECOND:** Dan Bailly

**ROLL CALL VOTE:**

Deb Phillips – yes

Steve Bannon – yes

Dan Bailly – yes

Ed Abrahams – yes

**VOTE: 4-0**

**Motion passed**

**6. LICENSES OR PERMITS:**

- A. KATE COBURN/FAIRVIEW COMMONS NURSING & REHAB FOR TEMPORARY ONE DAY WEEKDAY ENTERTAINMENT LICENSE FOR OCTOBER 4, 2014 FROM 11:00 AM -- 6:00 PM AT FAIRVIEW COMMONS GROUNDS, FRONT OF BUILDING IN THE PARKING LOT, 151 CHRISTIAN HILL ROAD. (DISCUSSION/VOTE)

**MOTION:** Steve Bannon to approve the license

**SECOND:** Dan Bailly

**VOTE: 4-0**

- B. VERIZON NEW ENGLAND, INC. FOR PERMISSION TO PLACE ONE (1) FOUR (4) INCH CONDUIT ON RAILROAD STREET BEGINNING AT MANHOLE 3, LOCATED NEAR THE WESTERLY CORNER OF THE INTERSECTION OF MAIN STREET AND RAILROAD STREET, AND THEN RUNNING IN A NORTHWESTERLY DIRECTION ALONG THE SOUTHWESTERLY SIDE OF RAILROAD STREET A DISTANCE OF APPROXIMATELY ONE HUNDRED TWENTY THREE (123) FEET TO A POINT. (DISCUSSION/VOTE)

**MOTION:** Steve Bannon to grant permission

**SECOND:** Dan Bailly

**VOTE: 4-0**

**7. NEW BUSINESS:**

- A. SB – APPOINTMENT TO THE CULTURAL COUNCIL. (DISCUSSION/VOTE)

**MOTION:** Steve Bannon to appoint Susan Pettee to the Cultural Council

**SECOND:** Dan Bailly

**VOTE: 4-0**

- B. PARKING REGULATIONS

Joe Sokul presented, in writing, items that were discussed by the Parking Task Force in a past meeting for the Selectboard to review.

**MOTION:** Steve Bannon to change the following parking lots to 4 hour parking and to install signage with the new restrictions: Castle Street Lot (currently no restrictions), upper Railroad St. lot (currently no restrictions) and Taconic parking lot (currently a 2 hr limit)

**SECOND:** Dan Bailly

**VOTE: 4-0**

**8, CITIZEN SPEAK TIME: None**

**9. SELECTBOARD'S TIME:**

Steve Bannon suggested that the Selectboard consider moving 'Licenses and Permits' up on the agenda; possibly after Town Managers report.

All agree

**10. MEDIA TIME:**

Eileen Mooney asked if any decisions have been made regarding Lake Mansfield Rd.

Deb Phillips replied that there will be a meeting on 9/29 with the Planning Board, Conservation Commission and Parks and Recreation. The Selectboard will give an update after this meeting.

**11. ADJOURNMENT:**

On a motion by Steve Bannon, seconded by Dan Bailly, the Board adjourned its meeting at 8:25 P.M.

Respectfully submitted,

*Cara Becker*

Cara Becker

Recording Secretary