

SELECTBOARD'S MEETING MINUTES

MONDAY, JULY 10, 2017

6:30 PM – EXECUTIVE SESSION

REGULAR SESSION IMMEDIATELY FOLLOWING

TOWN HALL, 334 MAIN STREET

PRESENT:

Sean Stanton
Steve Bannon
Dan Bailly
Ed Abrahams
Bill Cooke
Town Manager, Jennifer Tabakin
Town Planner, Chris Rembold

6:30 PM - OPEN MEETING

1. CALL TO ORDER

Chairman Sean Stanton called the meeting to order at 6:30PM

2. CONVENE INTO EXECUTIVE SESSION - Town Manager's Conference Room
MGL.c. 30A, sec. 21 (a) (3) to discuss ratification of the extension of the collective bargaining agreement with AFSCME Local 204 (DPW) and AFSCME Local 204 (Libraries) and Massachusetts Coalition of Police, Local 350 (Police).

Roll Call Vote

Reconvene into Open Session

SB – to Vote on Ratification of Collective Bargaining Agreements.

The executive session was postponed to an unspecified meeting date. The Selectboard continued with the regular meeting.

3. APPROVAL OF MINUTES:

June 12, 2017 Regular Meeting.

June 26, 2017 Regular Meeting.

The Selectboard did not vote to approve the meeting minutes for either the June 12, 2017 meeting nor the June 26, 2017 meeting.

4. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS:

A. General Comments by the Board.

The Selectboard made no comments or statements.

5. TOWN MANAGER'S REPORT:

A. Department Updates.

- The Town Manager announced she will be on vacation from July 13-23, 2017.
- Ms. Tabakin congratulated the Town Clerk Marie Ryan for fulfilling the requirements for the Master Municipal Clerk Program. Marie Ryan has earned a mastery of administrative skills that are critical to good government.
- Mass D.O.T submitted a timeline for the upcoming repair work intended for the Park Street bridge in Housatonic, MA. The Temporary bridge will be removed by 10/6 and traffic will be fully restored over the bridge in May 2018.

- Five Town Cable Advisory Committee - Update.

Tom Hatch, the Great Barrington Representative on the Cable Advisory Committee, updated the Board on the Cable Advisory Committee. Mr. Hatch said that it is not the role of the committee to negotiate either programming or pricing. The committee is also not responsible for deciding to implement fiber optic connection, this is determined by the cable company. Mr. Hatch said that he will ask Spectrum about future fiber optic plans at the September meeting.

B. Project Updates.

- Fada 'N' Gourma Sister City - Update.

Intern Ted Nappo presented on the contract with our Sister City Fada N'gourma. The Mayor of Fada N'gourma reached out to the Town Manager recently to inquire about the progress of this initiative that began with the former Town Manager, Kevin O'Donnell in 2012. The BARKA Foundation would help Great Barrington collaborate with Fada N'gourma on which type of project would most benefit the Sister City. Intern Ted Nappo suggested forming a committee to begin the discussion of what the possible next steps are and to outline goals.

Town Manager Tabakin said that this contract began as a cultural exchange and local citizens can take up a variety of projects and collaborate with different organizations like the BARKA Foundation. Ms. Tabakin

Motion: Steve Bannon motioned to acknowledge the letter from the Mayor of Fada N'gourma and to organize a committee as soon as possible.

Second: Dan Bailly

Vote: 5-0

6. LICENSES OR PERMITS:

A. Mark DeCelle/Great Barrington Rotary Club – Appeal of SB's Restriction of

“No helicopter rides during the event” on the following licenses:

- One Day Weekday Entertainment License for August 19, 2017 from 9:00 am – 4:00 pm at Walter Koladza Airport, 70 Egremont Plain Road. (Discussion/Vote)

Steve Bannon noted that he is a member of the Rotary Club but does not benefit financially so he is not recusing himself from the discussion/vote. Mark DeCelle of the Rotary Club said the helicopter ride is a big attraction and contributes to the success of the Bike N' Fly event. The helicopter rides occur from about 10:00AM-5:00PM. Mr. DeCelle mentioned that all earnings from the event are donated to community organizations like Fairview Hospital, Railroad Youth Project, Construct, and scholarships to Mount Everett and Monument Mountain High School Students. The Bike N' Fly is the Rotary Club's second largest fundraiser of the year. Ed Abrahams read a letter from a neighbor near the airport, the letter detailed concerns about noise and the helicopter frequently taking off above his/her home. The response from the Rotary Club to this letter was that if they could identify the home they would request the pilot to readjust flight pattern in order to avoid those areas. Holly Hammer, Seekonk Cross Road said that this is also a safety issue; the helicopter flies low above power lines. Anne Fredericks, Seekonk Cross Road asked the Rotary Club how much money the event actually earns. Claudia Ship

Motion: Steve Bannon motioned approve to permit helicopter rides at the Bike N'Fly Event.

Second: Dan Bailly

Vote: 5-0

- One Day Sunday Entertainment License for August 20, 2017 (Rain Date) from 9:00 am – 4:00 pm at Walter Koladza Airport, 70 Egremont Plain Road (Discussion/Vote)

Motion: Steve Bannon motioned to approve the rain date.

Second: Dan Bailly

Vote: 5-0

7. NEW BUSINESS:

A. Parks Commission – Presentation of Bike Fix It Stand. (Discussion/Vote)

Karen Smith, Parks Commission Chair requested that the Board approve the location for the Fix It Stand. The proposed location for the Fix It Stand is along Main Street in front of the Town Hall. Smith said this spot was identified as the best location to amplify visibility and usability. The Fix It Stand is about 5ft tall with tools built in for quick bike repair. Berkshire Bike and Board agreed to run monthly clinics during the summer and fall to provide lessons on how to fix or repair your bicycle at the Fix It station. Ms. Tabakin said that she does not think that the front of Town Hall is the best location for the Fix It Station. Ms. Tabakin said the safer location would be away from Main Street, in back of the Town Hall where there is more room for congregating and available parking spaces.

Motion: Steve Bannon motioned to approve the location recommended by the Parks and Rec Department.

Second: Dan Bailly

Vote: 5-0

B. SB - Recommendation to the Planning Board on Gary W. and Darra W. Happ, 154 Castle Hill Avenue on the special permit application to create a rear lot in R1A zone at 154 Castle Hill Avenue in accordance with Sections 4.3 and 10.4 of the Zoning Bylaw. (Discussion/Vote)

Susan Smith representing Gary and Darra Happ.

Motion: Steve Bannon motioned to make a positive recommendation to the Planning Board.

Second: Dan Bailly

Vote: 5-0

8. PUBLIC HEARINGS:

A. Continuation - McDonald's Corporation for a special permit to modify the conditions of special permit 567-98, in order to remodel and modernize the existing restaurant at 302 Stockbridge Road, Great Barrington, in accordance with Section 10.4 of the Great Barrington Zoning Bylaw. (Discussion/Vote)

a. Open Public Hearing

Motion: Steve Bannon motioned to open the public hearing.

Second: Dan Bailly

Vote: 5-0

b. Explanation of Project

- c. Barry Porter, CPH Inc. Civil Engineers remodeling the existing McDonald's restaurant. The engineers reported that the building is about 20 years old and is in need of repairs and remodeling. The repairs will include a new roof, updating the façade to a more modern design, a new modular counter system, and update all restrooms and entries/ exits to meet ADA requirements. Mr. Porter said the building design is specific for more rural areas as opposed to their more urban designs.

d. Speak in Favor/Opposition

David Magadini, 334 Main Street. Mr. Magadini requested that a condition of the Special Permit should be to require McDonald's Corporation to install three pay phones for the convenience of the public. Mr. Magadini informed the Selectboard that there were once three payphones in the shopping plaza. Mr. Magadini said these payphones were a valuable convenience for the public and they should be reinstalled.

d. Motion to Close Public Hearing

Motion: Steve Bannon motioned to close the public hearing.

Second: Dan Bailly

Vote: 5-0

e. Motion re: Findings

EXHIBIT A

FINDINGS OF FACT AND BASIS FOR DECISION

Re: Special Permit #872-17

Applicant(s): McDonalds

A. Introduction

This Special Permit application was filed on May 25, 2017 by CPH Professional Services Corp., Architects and Engineers, on behalf of applicant/owner McDonald's Corporation, for the property located at 302 Stockbridge Road, Great Barrington, MA. The application seeks permission from the Selectboard to modify a previously granted special permit, SP 567-98, in order to allow for the renovation of the restaurant's façade and roofline. Interior renovations are also proposed and will occur primarily in the dining area and bathrooms, to upgrade the finishes and to meet handicapped accessibility requirements. Minor modifications are proposed to site plan as well, in order to meet handicapped accessibility requirements. The special permit application has been filed in accordance with Section 10.4 of the Great Barrington Zoning Bylaw.

The application packet includes a transmittal/cover letter signed by CPH Corp, the special permit application, an application to the Planning Board for Site Plan Review, the certified list of abutter's. It also includes existing and proposed site plans showing, and drawings of the existing and proposed façade and roofline. The plans were prepared by CPH and dated 5/10/17 - 5/18/17.

B. General Findings

The property is located on Stockbridge Road (Route 7), between Cooper Road and Crissey Road, and it lies partially within the B-2 (General Business) and partially within the I (Industrial) zoning districts. The property is improved with a McDonald's fast food restaurant, constructed in 1998, with associated drive through and parking lot. The parcel is approximately 39,770 square feet in area, and the existing restaurant footprint is approximately 3,690 square feet. There are 75 seats and 53 parking spaces. In this application, there is no proposed change of use, no proposed increase in overall size, and no increase in parking demand or traffic generation.

§§7.7 and 7.9 of the Zoning Bylaw set forth certain requirements for fast food establishments and new high impact commercial uses. This application is not establishing a fast food use, nor is it establishing a new high impact commercial use; therefore, these sections of the bylaw do not strictly apply to this proposal.

This application pertains specifically to the Applicant's desire to make improvements to

the building's exterior appearance. These improvements are illustrated in the accompanying plans. The 1998 special permit—the existing permit authorizing the restaurant—was granted with five conditions, and while three of those were specific as to the exterior design, there are no reasons given about why these three items were notable or important enough to warrant a condition.

Those conditions are:

1. The outside façade of the building shall be horizontal siding;
2. The roof shall be architectural shingles;
3. The bottom two feet of the building shall be split face concrete block;
4. The dumpster area shall be screened with shrubbery;
5. The plans submitted to the Board shall be followed as presented and shall be clear and monitored by the Town Engineer and Building Inspector.

Generally, modification of a special permit or its conditions may be permitted, but only by a new special permit. In this case the Applicant proposes to:

- a. Retain but paint the existing concrete block base material.
- b. Paint or replace the existing horizontal vinyl clapboard siding or replace it with new horizontal siding material.
- c. Remove the existing sloping arcade roof, overhanging the exterior walkways and doors, and replace it with a new horizontal (flat) roof, hung from the building and held with a tie-back.
- d. Change the roof material and sign pediment to vertical style. The northerly sign pediment and (referred to as a “hearth”) and roof are to be painted as noted on the plans.

The Planning Board approved the Site Plan Review application (required for exterior alterations for commercial structures) and imposed the following conditions: (1) all lights shall have horizontal cutoffs (2) detectable warning panels be installed at the crosswalks within the site and (3) a stop sign be installed at the site exit onto Cooper Road.

The Planning Board also made a positive recommendation to the Selectboard on the special permit. The Board did recommend the Applicant consider the landscaping along Stockbridge Road and encouraged trees be added there. Also, the Board noted that the Applicant could consider additional exterior seating, since there are more than enough parking spaces to accommodate more seating.

The Conservation Commission concluded they have no concerns or jurisdiction per the Wetlands Act or Scenic Mountains Act. The Board of Health suggests that they be notified prior to construction, in order to ensure that possible construction dust/debris is contained.

C. General Special Permit Criteria and 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 #872-17:

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 proposal will allow an existing establishment to modernize and continue to serve the general public and provide employment opportunities. The proposal is in keeping with the vision and goals of the Master Plan in that it helps retain taxable real estate in developed locations, provides for a variety of business and employment opportunities, and helps maintain Stockbridge Road as a commercial corridor.
2. Traffic flow and safety, including parking and loading.
 - The use already exists. There are no existing concerns in this regard, and there are no proposed changes. A stop sign required by the Planning Board’s Site Plan Approval will mitigate potential conflicts at the site’s exit onto Cooper Road.
3. Adequacy of utilities and other public services.
 - The use already exists. There are no existing concerns in this regard, and there are no proposed changes.
4. Neighborhood character and social structures.
 - The use already exists, and there are no existing concerns in this regard. There is existing screening of the site and, specifically, the dumpsters, from the residential area.
5. Impacts on the natural environment.
 - The use already exists. The Selectboard finds the landscaping should be enhanced and the Applicant shall choose up to two trees with the advice of the Tree Committee.
6. Potential fiscal impact, including impact on town services, tax base, and employment.
 - An investment in the property will benefit the town’s tax base and retain the employment at this business location, without negatively impacting the surrounding tax base or town services.

Finding:

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

D. Proposed Conditions

1. The Health Inspector shall be notified prior to beginning construction in order to

inspect construction controls.

Motion: Steve Bannon motioned to approve the Findings and Fact for Special Permit 872-17 McDonald's Corporation as amended and referenced in Exhibit A.

Second: Dan Bailly

Roll Call Vote: Steve Bannon, **yes.** Dan Bailly, **yes.** Ed Abrahams, **yes.** Bill Cooke, **yes.** Sean Stanton, **yes.**

e. Motion re: Approval/Denial/Table

Motion: Steve Bannon motioned to approve the Special Permit 872-17 for McDonald's to modify the conditions of the Special Permit 567-98 in order to remodel and modernize the existing restaurant at 300 Stockbridge Road, Great Barrington, MA 01230 in accordance with Section 10.4 of the Zoning Bylaw.

Second: Dan Bailly

Roll Call Vote: Steve Bannon, **yes.** Dan Bailly, **yes.** Ed Abrahams, **yes.** Bill Cooke, **yes.** Sean Stanton, **yes.**

B. **Continuation** of Berkshire Aviation Enterprises Inc. Special Permit Application for Aviation field in an R4 zone at 70 Egremont Plain Road, Great Barrington, in accordance with 3.1.4 E(1), 7.2 and 10.4 of the Great Barrington Zoning Bylaw. (Discussion/Vote)

a. Open Public Hearing

Motion: Steve Bannon motioned to reopen the public hearing.

Second: Dan Bailly

Vote: 5-0

b. Explanation of Project

Airport Manager, Ken Krentsa explained to the Selectboard that the airport had both the well water and the soil around the aviation field tested for lead. The EPA reported that the levels of lead found were insignificant. Mr. Krentsa said that based on the results (which were presented to the Selectboard and Town Manager) the Great Barrington Airport does not seem to be the source of lead contaminating the neighbor's drinking water.

Attorney Lori Robbins informed the Selectboard that Berkshire Aviation Enterprises, Inc. will withdraw their special permit application at this time. Ms. Robbins said that B.A.E is requesting to withdraw their special permit application without prejudice and continue to operate as protected under the pre-existing, non-conforming use.

Motion: Steve Bannon motioned to accept the Great Barrington Airport's request to withdraw without prejudice.

Second: Dan Bailly

Vote: 5-0

c. Speak in Favor/Opposition

d. Motion to Close Public Hearing

Motion: Steve Bannon motioned to accept the Great Barrington Airport's request to withdraw without prejudice.

Second: Dan Bailly

Vote: 5-0

e. Motion re: Findings

f. Motion re: Approval/Denial/Table

9. CITIZEN SPEAK TIME:

Kelsey Whiting-Jones, a Community Organizer for Massachusetts and Connecticut addressing public and environmental health. Ms. Whiting-Jones cited the sources of possible air, soil, and water pollution caused by airplanes and airports. Ms. Whiting-Jones commended the Selectboard for listening to their residents' concerns on this matter.

Attorney, Rich Dohoney representing Mr. Fasteau and Ms. Fredericks. Attorney Dohoney said that had he the opportunity to speak he would have encouraged the Selectboard to accept the withdrawal of the special permit application with prejudice. Atty. Dohoney encouraged the Selectboard to vote to inform the Department of Environmental Protection of the health concerns surrounding the airport.

Anya Unger, West Sheffield Road. Ms. Unger urged the Selectboard to require the GB Airport to submit a noise contour map.

Cheryl Line, Seekonk Cross Road. Ms. Line said that the Selectboard should still consider the issues that were brought up during the review of this Special Permit; the noise and soil and water pollution.

10. SELECTBOARD'S TIME:

Dan Bailly addressed the issue that there could be various sources of contamination around the airport such as, run off from farms, and old water pipes containing lead or copper.

11. MEDIA TIME:

None

12. ADJOURNMENT:

On a motion made by Steve Bannon, seconded by Dan Bailly, with a unanimous vote, the meeting was adjourned at 8:10PM.

*Respectfully Submitted,
Rebecca Jucamp*