

**TOWN OF GREAT BARRINGTON
TOWN MEETING
AT MONUMENT MOUNTAIN REGIONAL HIGH SCHOOL
PARKING LOT (OUTSIDE MEETING)
600 STOCKBRIDGE ROAD
JUNE 7, 2021 AT 6:00 PM
MINUTES**

In pursuance of the foregoing warrant the inhabitants of the Town of Great Barrington qualified to vote in Town Meetings proceeded to vote at the above named meeting place with the following results. The meeting was duly called to order at 6:01 P.M. by Moderator Michael Wise who welcomed everyone to the Town Meeting. He noted that he hoped to conclude all business this evening. Mr. Wise stated that there was a quorum present and noted the return and service of the warrant. He announced that the meeting is being taped for broadcast at a later date and any use of social media during the meeting is prohibited. He also asked that cell phones be shut off as well. Mr. Wise requested that everyone stand and join him in the Pledge of Allegiance.

Selectboard member Leigh Davis read the following Official Land Acknowledgement: “As we gather this evening for our annual town meeting, where we will decide upon the future direction of our community, it is important that we also look to, and learn from, the lessons of the past. We want to acknowledge that we gathered on the traditional lands of the Mohican People, and honor with gratitude the land itself and the people who have stewarded it throughout the generations. We commit to continuing to learn how to become better caretakers of the land we inhabit, to understand the history and traditions of those who cared for it before us, and to learn from the successes and failures of preceding generations, in the pursuit of a more just, equal, Great Barrington.”

Mr. Wise introduced the Town Officials seated on the stage; Town Clerk Jennifer Messina, Finance Director Susan Carmel, Town Counsel David Doneski, Town Manager Mark Pruhenski and Assistant Town Manager Christopher Rembold. He also announced the Selectboard and Finance Committee members were also seated on each side of the stage.

The rules of the meeting were explained by Mr. Wise. The meeting will be governed by the Massachusetts General Laws, the Bylaws of the Town of Great Barrington and Town Meeting Time. Only registered voters of the town may participate in the meeting unless permission is granted by the moderator. Before anyone addresses the Town Meeting, he/she must proceed to the microphone and when recognized by the moderator state their name and address. Mr. Wise requested that voters speak only once per motion and limit their comments to three minutes. Comments should be limited to the merits of the motion and should not be repeated. All motions and amendments must be made in writing and any motion to reconsider must be made within 15 minutes of the announced vote. All questions are to be addressed to the moderator who will ask the appropriate person to respond. Each voter has received a warrant, a pink card and a packet of yes/no cards. Mr. Wise will instruct voters when these are to be used and what color to use if needed. He noted that a counter has been assigned to each section of the parking lot and they will report their numbers at the microphone when ready.

A motion was made by Trevor Forbes, seconded by someone in the audience to change the order of the warrant articles and to proceed with Articles 25-32 (citizen petition articles) as first order of business. Mr. Wise stated this needed to be a majority vote.

VOTED AT 6:14 PM

ARTICLE 25: (2/3 Majority, Zoning by Petition)

On a motion by Michelle Loubert and seconded by someone in the audience, to see if the Town will vote to amend sections 7.18.4 and 7.18.5 of the Great Barrington Zoning bylaw 7.18 Marijuana Establishments and Medical Marijuana Treatment Centers and modify section 3.1.4 Table of Uses accordingly or to take any other action relative thereto.

Purpose of the Amendment: The undersigned propose this amendment in response to the concerns expressed by some residents in numerous public meetings and forums as to the negative impacts of marijuana businesses in our community, particularly those located or proposed to be located in or near our residential neighborhoods. Our Master Plan states, “Great Barrington’s vision includes protecting and enhancing our compact village centers, historic treasures, natural resources, farms, and open spaces, all of which contribute to Great Barrington’s distinctive character. Our goals include directing development and growth into village centers, supporting existing residential neighborhoods, and ensuring that new developments in resource areas are sited and build it in a way that sustains our rural countryside and agricultural areas.”

The Master Plan further states, “Residents expect and deserve quiet neighborhoods free from odor, glare, noise and other impacts of commercial activity. Proper buffering and design standards can help ensure business remains healthy and residential property values remain stable, while still encouraging concentration of development in the core areas.” The undersigned bring forward the below changes to Zoning by law 7.18 in an effort to better align this bylaw and the Table of Uses with the goals and objectives of the Master Plan.

Proposed deletions of existing text are ~~struck through~~.

Proposed insertions are underlined.

1. Amend Portions of Section 7.18.4 as follows:

7.18.4. Locational requirements. Marijuana establishments may be located in accordance with Section 3.1.4, Table of Use Regulations, except as follows:

1. No marijuana establishment or medical marijuana treatment center may be located closer than ~~200~~ 500 feet from a preexisting public or private school providing education in Kindergarten or any of Grades 1 through 12 child care facility, including preschools and daycare centers, or any facility in which children commonly congregate, including, but not limited to, a public library, a playground or park, and athletic field or recreational facility, a place of worship, or a town-owned beach.

2. The distance in paragraph 1 is to be measured in a straight line from the nearest point of the property line of the proposed marijuana establishment or medical marijuana treatment center and the nearest point of the property line of the protected uses stated above in paragraph 1.

3. The Selectboard may, by special permit pursuant to Section 10.4, authorize a deviation from this distance requirement if it finds the marijuana establishment or medical marijuana treatment center will not be detrimental to a protected use.

~~4. No Marijuana Establishment of Medical Establishment of Medical Marijuana Treatment Center will be allowed in any Residential District as described in Section 2.0 of the Zoning Bylaws.~~

4. 5. Other types of marijuana establishments licensed by the Massachusetts Cannabis Control Commission may be permitted in accordance with the appropriate use category in the Table of Use Regulations.

2. Amend portions of Section 7.18.5 as follows:

7.18.5. Physical Requirements. In addition to pertinent requirements of implementing regulations of the Massachusetts Cannabis Control Commission. Marijuana establishments and medical marijuana treatment centers shall comply with the following:

1. All aspects of a marijuana establishment or medical marijuana treatment center relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana,

marijuana accessories, related supplies, or educational materials shall take place at a fixed location within a fully enclosed building or fenced area dedicated to the cultivation of marijuana and shall not be visible from the exterior of the business.

2. No unprotected storage of marijuana, related supplies, or educational materials is permitted.

3. No use shall be allowed by a Marijuana Establishment of Medical Marijuana Treatment Center which creates a nuisance to abutters or the surrounding area, or which creates any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the surrounding area.

4. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of a Marijuana Establishment or Medical Marijuana Treatment Center or at any adjoining use of property.

5. No noise from the establishment of its operations, including but not limited to ventilation, can be detected by a person with unimpaired and otherwise normal hearing at the exterior of a Marijuana Establishment of Medical Marijuana Treatment Center or at any adjoining use or property.”

6. Marijuana Establishments or Medical Marijuana Treatment Centers with grow operations in a translucent building shall not illuminate grow operations between dusk and dawn.

3. 7. Marijuana not grown inside a securable structure shall be enclosed within a six-foot fence, and inasmuch as possible the plants shall be screened from view, at grade, from a public way or from a protected use.

4 8. No outdoor cultivation of marijuana shall be allowed within ~~fifty (50)~~ two hundred (200) feet of any property line.

9. No outdoor home cultivation of marijuana shall be allowed within (50) feet of any property line.

The following people spoke on this article:

Michelle Loubert	Denise Forbes
Bruce Loubert	Stephanie Boszko
Malcolm Fick	Trevor Forbes
Karin Passmore	

Trevor Forbes made a motion, seconded by someone in the audience, to amend this article to reduce the buffer zone between residential marijuana cultivation and the property line to 25 feet from the 50 foot offset allowed for in Article 25. The following people spoke on the amendment:

Brandee Nelson	Jonathan Hankin
Michael Monroe	Stephanie Boszko
Michelle Loubert	Sharon Gregory

The Moderator asked for a vote on this amendment. He stated it need to be a majority vote. He asked for the tellers to do a hand count of the yes/no slips.

AMENDMENT FAILED AT 6:45 PM
YES- 65 NO- 85

Michelle Loubert made a motion, seconded by someone in the audience that the vote on citizen petition Article 25 be taken by secret ballot. The Moderator stated this vote needed to be a majority vote.

MOTION FAILED AT 6:46 PM

The following people spoke on the main motion:

Edward Abrahams	Daniel Bailly
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Jonathan Hankin
Anne Alquist
Garfield Reed

Trevor Forbes
Pedro Pachano

Pedro Pachano stated “call the question” to end the debate and to vote on the main motion. The Moderator stated it required a 2/3 majority vote.

MOTION PASSED AT 7:04 PM

The Moderator asked for a vote on the main motion to Article 25 and stated it required a 2/3 majority vote. He asked for the tellers to do a hand count.

2/3RDS MAJORITY VOTE FAILED AT 7:08 PM

YES- 66 NO- 90

ARTICLE 26: (Zoning by Petition)

On a motion by someone in the audience and seconded by someone in the audience, to take no action on the following article:

A Town Bylaw Amendment to limit the role of unsubstantiated opinion as a factor in the award of Special Permits by the Town Planning Board

"1. In voting on whether to grant Special Permits to development and/or business interests the members of the Planning Board in its capacity as sole Special Permit awarding authority must address abutters' specific quality of life concerns by reference to strict criteria and without recourse to vague, qualitative language elsewhere in the Bylaws which allow unsubstantiated claims as to the benign effect of a development on a neighborhood, to wit: claims by a developer that (A) a development 'will not be more detrimental than a previous use'; (B) as a standard for judging effects of increased traffic at a property proposed for a development (or change of use) words to the effect that 'proposed traffic will not be severely impacted by the [new] use'; (C) language currently in the bylaws and related to a development's proposed parking arrangement meet stringent standards (eg that a provision for not less than 1.5 parking slots per unit in a residential development be stipulated as a condition of award), standards moreover which realistically reflect the likelihood of the scale of vehicle ownership by tenants and users; (D) credible provision by the developer for such adequate parking specifically be made on published plans and in writing; (E) claims by a developer that a development is 'consistent with the neighborhood character' be deprioritized as a basis for awarding a Special Permit and replaced by a provision which requires the Planning Board to ascertain a 'neighborhood's character' before accepting assurances about what is, or is not, actually being changed, by whom and how much. To the extent that unsubstantiated claims by developers or their counsel or personnel on the basis of these above captioned Bylaw references occur they shall henceforth be adjudged inadequate as a standard for the award of Special Permits.

"2. The above-referenced 'strict criteria' for awarding Special Permits shall be the subject of review by the Selectboard as a basis for establishing public, Town-wide criteria for allowing fair and consistent Town development in which the views of all parties have equal weight in the outcomes that result from the award of Special Permits."

VOTED TO TAKE NO ACTION AT 7:09 PM

Articles from September 15, 2020 Special Town Meeting

ARTICLE 26: (Zoning by Petition)

On a motion by Michael Kernan and not seconded by anyone that the Town residents vote to amend Zoning Bylaw §9.11 as set forth below, and to amend the Zoning Map accordingly:

1. Amend a portion of Section 9.11, Mixed Use Traditional Zone (MXD) as follows:

9.11.2 Location. The MXD shall consist of the land shown on the ~~2015~~ 2016 Town of Great Barrington Assessors' Map 22 as Parcels 2, 3A, ~~4-13~~ 4-6, ~~18-63~~ 63, ~~66-88~~ 66-72, 81-88, 88A and on Map 25 as Parcels 1-4.

2. Amend the Zoning Map by placing the following parcels in a R3 zone, as follows: the land shown on the 2016 Town of Great Barrington Assessors' Map 22 as Parcels 7-13, 18-62, 73-80.

Purpose of the Amendment: At the 2016 Annual Town Meeting the Town Planning Board put through a proposal that created the MXD zone. The stated purpose of the 2016 proposal cites "the recommendations of the 2013 Master Plan to update the zoning in certain commercial areas within walking distance of a village center, to preserve and enhance the mix of residential and retail uses, and to reflect the context of the built fabric." This MXD zone does not accomplish its stated purposes. It joins together two drastically different neighborhoods: the Mahaiwe Triangle (mostly residential parcels on Pope, Mahaiwe and Manville Streets, and 14 residential parcels along nearby Main Street) with commercial parcels west of Maple Avenue and south of Manville Street. The Mahaiwe Triangle is not a commercial area; it consists of one-family residences 60-120years old with a smattering of houses legally converted into two-family and professional space.

As two separate pending lawsuits are demonstrating, this MXD zone has created a loophole by which land developers are acting without any effective zoning regulations. By examining the Table of Use Regulations in Zoning Bylaw §4.1.2, it is appropriate to place the Mahaiwe Triangle in a R3 Zone.

	Min lot	Width	Front	Side	Rear	Bldg %	Story	Height
R3	5000	50	25	10	30	25	2.5	35
B2	43,560	50	50	20	30	25-40	2.5	35
MXD	5000	50	15	10	10	75	3.5	40

MOTION FAILS, NO SECOND AT 7:10 PM

ARTICLE 27: (Zoning by Citizen Petition)

On a motion by someone in the audience and seconded by someone in the audience, to take no action of the following article:

To seek a zoning change to the i2 zoning district. Under use regulations 3.0c section 13(marijuana establishment and Manufacturing) in the i2 Zone. The current zoning is listed as a no. We would ask the planning board to change this to a SB zone.

VOTED TO TAKE NO ACTION AT 7:11 PM

ARTICLE 28: (majority, Citizen Petition)

On a motion by Michelle Loubert and seconded by someone in the audience, that the Town take no action on the following article:

To see if the Town will vote to amend sections 7.18.4 and 7.18.5 of the Great Barrington Zoning bylaw 7.18 Marijuana Establishments and Medical Marijuana Treatment Centers and modify section 3.1.4 Table of Uses accordingly or to take any other action relative thereto.

Purpose of the Amendment: The undersigned propose this amendment in response to the concerns expressed by some residents in numerous public meetings and forums as to the negative impacts of marijuana businesses in our community, particularly those located or proposed to be located in or near our residential neighborhoods. Our Master Plan states, “Great Barrington’s vision includes protecting and enhancing our compact village centers, historic treasures, natural resources, farms, and open spaces, all of which contribute to Great Barrington’s distinctive character. Our goals include directing development and growth into village centers, supporting existing residential neighborhoods, and ensuring that new developments in resource areas are sited and build it in a way that sustains our rural countryside and agricultural areas.”

The Master Plan further states, “Residents expect and deserve quiet neighborhoods free from odor, glare, noise and other impacts of commercial activity. Proper buffering and design standards can help ensure business remains healthy and residential property values remain stable, while still encouraging concentration of development in the core areas.” The undersigned bring forward the below changes to Zoning by law 7.18 in an effort to better align this bylaw and the Table of Uses with the goals and objectives of the Master Plan.

Proposed deletions of existing text are ~~struck through~~.

Proposed insertions are underlined.

1. Amend Portions of Section 7.18.4 as follows:

7.18.4. Locational requirements. Marijuana establishments may be located in accordance with Section 3.1.4, Table of Use Regulations, except as follows:

1. No marijuana establishment or medical marijuana treatment center may be located closer than ~~200~~ 500 feet from a preexisting public or private school providing education in Kindergarten or any of Grades 1 through 12 child care facility, including preschools and daycare centers, or any facility in which children commonly congregate, including, but not limited to, a public library, a playground or park, and athletic field or recreational facility, a place of worship, or a town-owned beach.
2. The distance in paragraph 1 is to be measured in a straight line from the nearest point of the property line of the proposed marijuana establishment or medical marijuana treatment center and the nearest point of the property line of the protected uses stated above in paragraph 1.
3. The Selectboard may, by special permit pursuant to Section 10.4, authorize a deviation from this distance requirement if it finds the marijuana establishment or medical marijuana treatment center will not be detrimental to a protected use.
4. ~~No Marijuana Establishment of Medical Establishment of Medical Marijuana Treatment Center will be allowed in any Residential District as described in Section 2.0 of the Zoning Bylaws.~~
4. 5. Other types of marijuana establishments licensed by the Massachusetts Cannabis Control Commission may be permitted in accordance with the appropriate use category in the Table of Use Regulations.

2. Amend portions of Section 7.18.5 as follows:

7.18.5. Physical Requirements. In addition to pertinent requirements of implementing regulations of the Massachusetts Cannabis Control Commission. Marijuana establishments and medical marijuana treatment centers shall comply with the following:

1. All aspects of a marijuana establishment or medical marijuana treatment center relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, marijuana accessories, related supplies, or educational materials shall take place at a fixed location within a fully enclosed building or fenced area dedicated to the cultivation of marijuana and shall not be visible from the exterior of the business.
2. No unprotected storage of marijuana, related supplies, or educational materials is permitted.
3. No use shall be allowed by a Marijuana Establishment of Medical Marijuana Treatment Center which creates a nuisance to abutters or the surrounding area, or which creates any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent

or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the rea.

4. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of a Marijuana Establishment or Medical Marijuana Treatment Center or at any adjoining use of property.

5.No noise from the establishment of its operations, including but not limited to ventilation, can be detected by a person with unimpaired and otherwise normal hearing at the exterior of a Marijuana Establishment of Medical Marijuana Treatment Center or at any adjoining use or property.”

6. Marijuana Establishments or Medical Marijuana Treatment Centers with grow operations in a translucent building shall not illuminate grow operations between dusk and dawn.

3. 7. Marijuana not grown inside a securable structure shall be enclosed within a six-foot fence, and inasmuch as possible the plants shall be screened from view, at grade, from a public way or from a protected use.

4 8. No outdoor cultivation of marijuana shall be allowed within ~~fifty (50)~~ two hundred (200) feet of any property line.

VOTED TO TAKE NO ACTION AT 7:12 PM

ARTICLE 29: (majority, Citizen Petition)

On a motion by Michael Kernan and seconded by someone in the audience, that the Town vote to amend Chapter 241 of the Town Code, Division 3 Miscellaneous Rules and Regulations, as set forth below:

Amend Section 241-1 Placement on Agenda, as follows:

Every Great Barrington committee or board, whether appointed or elected, shall place on their agenda of public meetings an item for citizen speak time. Except for procedural and housekeeping matters, Town residents shall have the right to address a Board on any item that requires a vote at a time before a Board votes on that item. Such residents will be allowed as much time as the proponent of an item is permitted to have.

Purpose of the Amendment: Under current law and procedure, residents have the right to speak at a public hearing or on a special permit or during Citizen Speak at the end of the evening’s meeting or when recognized by the Chair of a Board. There are often items on the agenda of a public meeting for which a Board will have a discussion and vote. Each Board allows the proponent of an item to present its proposal and to present evidence and testimony relative to such proposal. During and after such presentation, a Board may ask questions of the proponent. Rarely does a Board allow residents the right to speak at that time, before a vote on the item. Residents may speak as of right during the Citizen Speak portion at the end of a meeting. But this may be of little consequence to the merits of a proposal as a vote has already been taken. There are often meetings where a Board member may commend a resident on their comment and how the comment was relevant to the proposal. Unfortunately, the vote had already been taken.

This amendment will give residents the right to speak on a particular item at a time when the discussion of an item is still a viable matter. That is, the right to speak and offer comment on matters that affect them, before a Board has voted. In this way, a Board will have the benefit of hearing more than one side of an issue, not just the proponent but also those affected by such proposal. A Board must listen to more than just the proponent of a proposal.

The following people spoke on this article:

Michael Kernan
Brandee Nelson

James Bailly
Denise Forbes

The Moderator asked for a vote on this article and stated it required a majority vote. He asked for the tellers to do a hand count.

VOTED AT 7:25 PM
YES- 85 NO- 57

ARTICLE 30: (majority, Citizen Petition)

On a motion by Michael Kernan and seconded by someone in the audience, that the Town vote to amend Chapter 189 of the Town Code, Division 2 Selectmen's Regulations, as set forth below:

Amend Section 189-1 Meetings, subdivision C, paragraph (4), as follows

(4) Although the press and the public have the right to be present at any open meeting, they have no right to participate unless they are recognized by the Chairman. Except for procedural and housekeeping matters, Town residents shall have the right to address the Board on any item that requires a vote at a time before the Select Board votes on that item. Such residents will be allowed as much time as the proponent of an item is permitted to have.

Purpose of the Amendment: Under current law and procedure, residents have the right to speak at a public hearing or on a special permit or during Citizen Speak at the end of an evening's meeting or when recognized by the Chair of the Select Board. There are often items on the agenda of a public meeting for which the Select Board will have a discussion and vote. The Select Board allows the proponent of an item to present its proposal and to present evidence and testimony relative to such proposal. During and after such presentation, the Select Board may ask questions of the proponent. Rarely does the Select Board allow residents the right to speak at that time, before a vote on the item. Residents may speak as of right during the Citizen Speak portion at the end of a meeting. But this may be of little consequence to the merits of a proposal as a vote has already been taken. As an example there was a recent meeting where a Board member commended the resident on their commitment and how the comment was relevant to the proposal. Unfortunately, the vote has already been taken.

This Amendment will give residents the right to speak on a particular item at a time when the discussion of an item is still a viable matter. That is, the right to speak and offer comment on matters that affect them, before the Board has voted. In this way, the Board will have the benefit of hearing more than one side of an issue, not just the proponent but also those affected by such proposal. The Board must listen to more than just the proponent of a proposal.

Michael Kernan and Pedro Pachano spoke on this article.

Pedro Pachano proposed an amendment for a minimum of 2 minutes for residents to speak but the Moderator stated the amendment was not acceptable. Mr. Wise called for a vote on the main motion.

VOTED AT 7:30 PM

ARTICLE 31: (majority, Citizen Petition)

On a motion by Mary Beth Merritt and seconded by someone in the audience that the Town vote to approve the following resolution:

Whereas the storage and disposal of hazardous and toxic waste, including PCB's from a variety of sources to include the "Rest of River" cleanup by GE is deleterious to the health of all life;

Whereas the storage and disposal of such waste is antithetical to the Food Sovereignty and Pollinator Friendly resolutions as adopted by the Town of Great Barrington;

Whereas we have sovereign rights as promulgated and protected under the Constitution of the United States of America, among them Life, Liberty and the Pursuit of Happiness. Without our health, healthy water, land and air, we are denied those inalienable rights;

Therefore, we, the citizens of the Town of Great Barrington, do here by adopt this resolution that prohibits the disposal, dumping or storage of hazardous and toxic waste from any source on the land or in the water in the Town of Great Barrington (including Housatonic) under any circumstances to ensure our rights and the rights of future generations to a healthy life.

The following people spoke on this article:

Mary Beth Merritt
Denise Forbes
Edward Abrahams

David Doneski, Town Counsel
Jorge Alcala
Jonathan Hankin

VOTED AT 7:37 PM

ARTICLE 32: (majority, Citizen Petition)

On a motion by someone in the audience and seconded by someone in the audience, that the Town no action on the following article:

We sign this petition to close down and outlaw all privately owned “prisons-for-profit” state-wide in MA. These institutions are literally ruining the lives of countless inmates (and their loved ones), whereas properly run and supported State correctional facilities do help rehabilitate people giving them hop in the present, and futures they can look forward to, namely, the chance to contribute to society and live more and more meaningful lives for themselves and others.

VOTED TO TAKE NO ACTION AT 7:37 PM

Mr. Wise introduced Town Manager Mark Pruhenski who went through the Financial Overview handout of the budget.

ARTICLE 1: (majority)

On a motion by Stephen Bannon and seconded by Leigh Davis, that the Town amend Chapter 36 of the Great Barrington Code, Revolving Funds, by adding a new fund to section 36-1 for the Council on Aging transportation program, as shown in the warrant for this Town Meeting but with the addition of the word “Transportation” before “Program” in the Department Receipts column.

Add to list in section 36-1:

Program or Purpose	Representative or Board Authorized to Spend	Department Receipts
Council on Aging	Town Treasurer	Program Fees and Charges

Finance Director Susan Carmel spoke on this article.

**VOTED AT 7:41 PM
UNANIMOUS**

ARTICLE 2: (majority)

On a motion by Anne O’Dwyer and seconded by someone in the audience, that the Town set the FY2022 spending limits for Town revolving funds as set forth in the Warrant, namely, Plumbing Inspections \$15,000, Wiring Inspections \$55,000, Gas Inspections \$12,000, Cemetery \$5,000 and Council on Aging Transportation \$50,000.

Revolving Fund	Department, Board, Committee, Agency or Officer	FY2022 Spending Limit
Plumbing Inspections	Building Department	\$15,000
Wiring Inspections	Building Department	\$55,000
Gas Inspections	Building Department	\$12,000
Cemetery	Public Works Department	\$ 5,000
Council on Aging	Council on Aging	\$50,000

Finance Director Susan Carmel spoke on this article.

**VOTED AT 7:43 PM
UNANIMOUS**

ARTICLE 3: (majority)

On a motion by Anne O’ Dwyer and seconded by Leigh Davis, that the Town fix the salaries of all elected officials for the period of July 1, 2021 to June 30, 2022 as indicated below:

Elected Officials’ Salaries:
Selectboard: \$23,500 (\$4,700 per Selectboard member)

Town Manager Mark Pruhenski spoke on this article.

**VOTED AT 7:45 PM
UNANIMOUS**

ARTICLE 4: (majority)

On a motion by Anne O’ Dwyer and seconded by someone in the audience, that the Town accept any and all funds being provided by the Commonwealth of Massachusetts Division of Transportation (MassDOT), under the provisions of Chapter 90 of the Massachusetts General Laws, to pay for such costs as allowed by appropriate legislation in connection with the maintenance, repair, and construction of town ways and bridges.

**VOTED AT 7:46 PM
UNANIMOUS**

ARTICLE 5: (majority)

On a motion by Anne O’Dwyer and seconded by someone in the audience, that the Town raise and appropriate such sums of money necessary for the operation of departments in the Town for the ensuing fiscal year for the purposes outlined below:

General Government

Town Manager/Selectboard	\$ 438,820
Finance Committee/Reserve Fund	160,300
Finance Director/Town Accountant	153,845
Technology	235,000
Assessors’ Office	176,505
Treasurer/Collector	224,547
Town Clerk/Elections	129,801

Conservation Commission	31,847
Various Boards/Commission	22,970
Planning Board	5,350
Zoning Board of Appeals	1,300
Office of Planning/Community Development	138,910
<u>Public Safety</u>	
Police Department	1,839,010
Fire Department	674,020
Communications/Emergency Management	21,005
Building Inspector	176,912
Animal Control	12,200
<u>Department of Public Works</u>	2,451,878
<u>Public Health</u>	
Health Department	113,503
<u>Community Services</u>	
Council on Aging	156,469
Veterans' Affairs	155,700
Human Services	30,000
<u>Cultural/Recreation</u>	
Libraries	576,665
Parks/Recreation	118,000
<u>Miscellaneous</u>	
Insurance	1,804,700
Debt Service	2,067,842
Retirement	999,289
Celebrations/Seasonal/Events/Band Programs	<u>12,500</u>
Total General Fund Budget	\$ 12,928,888

The Moderator stated he would go line by line and if there were any holds for the voters to call out hold.

One held item was:

Planning Board: James Bailly, Brandee Nelson and Edward Abrahams spoke on this item.

James Bailly made a motion and it was seconded by someone in the audience to move \$1,350 from the Planning Board budget to the Veterans' Affairs budget. Brandee Nelson and Edward Abrahams spoke on this amendment.

Mr. Wise asked for a vote on this amendment to the Planning Board budget.

AMENDMENT FAILED AT 7:57 PM

The other held items were:

Office of Planning: Pedro Pachano and Christopher Rembold spoke on this item.

Police: Charles Williamson, Susan Carmel and Mark Pruhenski spoke on this item.

Department of Public Works: Anne O'Dwyer spoke on this article.

A motion was made by Ms. O'Dwyer and seconded by someone in the audience to amend the main motion by increasing the Department of Public Works budget by \$25,000 to be allocated to the Public Buildings- Repair-Buildings & Grounds account (line 01192-52410) for a total of **\$2,476,878**.

The Moderator then asked for a vote on this amendment.

AMENDMENT PASSED AT 8:03 PM

The other items that were held:

Veteran's Affairs: James Bailly spoke on this item.

Libraries: Michael Monroe and Susan Carmel spoke on this item.

Mr. Wise then asked for a vote on the article with the amendment for the Department of Public Works budget increase and he stated this had to be a 2/3rds majority vote.

VOTED 2/3rds MAJORITY AT 8:07 PM

ARTICLE 6: (majority)

On a motion by Anne O'Dwyer and seconded by someone in the audience, that the Town appropriate from the receipts of the Wastewater Treatment Plant such sums of money necessary for the operation of the Sewer Division for the ensuing fiscal year for the purposes outlined below:

Wastewater Treatment Plant

Salaries	\$ 503,450
Expenses	743,400
Insurance/Benefits	319,950
Miscellaneous/Transfers	183,600
Debt Service	<u>664,100</u>
Total Wastewater Treatment Plant Budget	\$2,414,500

DPW Superintendent Sean Van Deusen spoke on this article.

VOTED AT 8:10 PM

ARTICLE 7: (2/3 majority secret ballot)

On a motion by Anne O'Dwyer and seconded by someone in the audience, that the sum of \$1,532,600 is appropriated to pay costs of undertaking various capital projects and acquiring various items of capital equipment, as follows:

(i) making various street and bridge improvements at an approximate cost of \$720,000, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow \$300,000 under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor, and \$420,000 shall be transferred from Chapter 90 funds, so-called.

(ii) making various building improvements at an approximate cost of \$265,000, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

(iii) purchasing and equipping one new police cruiser at a cost of approximately \$48,150, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Town raise and appropriate said funds.

(iv) acquiring (3) new portable radios for the Police Department at an approximate cost of \$25,100, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Town authorize the use of \$25,100 of Free Cash.

(v) replacing (7) vehicle laptops/tablets for the Police Department vehicles at an approximate cost of \$32,100, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Town authorize the use of \$32,100 of Free Cash.

(vi) acquiring a new combination backhoe/loader for the Department of Public Works at an approximate cost of \$145,450, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

(vii) acquiring a new truck lift for the Department of Public Works at an approximate cost of \$79,500, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

(viii) acquiring (1) new sidewalk plow and sander for the Department of Public Works at an approximate cost of \$124,300, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

(ix) acquiring a ticket kiosk for the Transfer Station at an approximate cost of \$53,000, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

(x) making park and open space improvements at an approximate cost of \$40,000 and that to meet this appropriation, the Town authorize the use of \$40,000 of Free Cash.

The amounts authorized to be borrowed by this vote are necessarily estimates, and as such, the Selectboard is authorized to borrow more for any project and less for another, so long as, in its judgment, each project to be funded in whole or in part by a borrowing can be completed within the total amount authorized to be expended by this vote. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the Massachusetts General Laws thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Street and Bridge Improvements	\$ 720,000
Building Improvements	265,000
Police Cruiser	48,150
Police Portable Radios (3)	25,100
Laptop/Tablets for Cruisers (7)	32,100
Backhoe/Loader	145,450
Truck Lift	79,500
Sidewalk Plow and Sander	124,300
Transfer Station Ticket Kiosk	53,000
Parks Improvements	<u>40,000</u>
Total	\$1,532,600

The Moderator stated he would go line by line and if there were any holds for the voters to call out hold.

The held items were:

- (i) Anne Alquist and Sean Van Deusen spoke on this item.
- (ix) William, Dunbar, Sean Van Deusen and Carol McGlinchey spoke on this item.
- (x) Karen Smith and Anne Alquist spoke on this item.

After all the held items were discussed, the Moderator asked for a vote and again stated this vote had to be by secret ballot and a 2/3rds majority vote. He then asked for the voters to use their blue yes/no cards to vote on this article and asked the tellers to collect the cards from the voters.

VOTED by 2/3rds SECRET BALLOT AT 8:32 PM

YES – 139 NO – 9

ARTICLE 8: (majority)

On a motion by Anne O’Dwyer and seconded by Stephen Bannon, that the Town raise and appropriate the sum of Seventeen Million, Nine Hundred Twenty-Eight Thousand, Eight Hundred and Twelve Dollars (\$17,928,812) for the operating assessment, and Five Hundred Three Thousand, Five Hundred and Eighty-Six Dollars (\$503,586) for the capital assessment, for a total assessment of Eighteen Million, Four Hundred Thirty-Two Thousand, Three Hundred and Ninety-Eight Dollars (\$18,432,398) of the Berkshire Hills Regional School District.

School Superintendent Peter Dillon did a brief overview on the school budgets.

VOTED AT 8:29 PM

ARTICLE 9: (2/3 majority secret ballot)

On a motion by Anne O’Dwyer and seconded by someone in the audience, that the sum of \$405,500 is appropriated to pay costs of undertaking various capital projects and acquiring capital equipment in the Wastewater Department, as follows:

(i) developing and implementing a Sewer System Management/Maintenance Plan at an approximate cost of \$185,500 including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(7), or any other authority, and to issue bonds or notes of the Town therefor.

(ii) replacing the sewer line at Castle Hill Avenue at an approximate cost of \$20,000, including the payment of all costs incidental and related thereto, and that to meet this appropriation the Town authorize the use of \$20,000 of Retained Earnings in the Sewer Enterprise Fund.

(iii) rehabilitating various sewer manholes at an approximate cost of \$200,000, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor.

The amounts authorized to be borrowed by this vote are necessarily estimates, and as such, the Selectboard is authorized to borrow more for any project and less for another, so long as, in its judgment, each project to be funded in whole or in part by a borrowing can be completed within the total amount authorized to be expended by this vote. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the Massachusetts General Laws thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

The Moderator stated this vote had to be by secret ballot and a 2/3rds majority. He then asked for the voters to use their purple yes/no cards to vote on this article and asked the tellers to collect the cards from the voters.

VOTED by 2/3rds SECRET BALLOT AT 8:39 PM

YES – 136 NO – 4

ARTICLE 10: (majority)

On a motion by Anne O'Dwyer and seconded by Michelle Loubert , that the Town authorize the use of \$3,525,000 in Free Cash to reduce the tax levy for Fiscal Year 2022.

VOTED AT 8:33 PM

ARTICLE 11: (majority)

On a motion by Anne O'Dwyer and seconded by Stephen Bannon, that the Town appropriate and authorize the use of \$350,000 in Free Cash, representing amounts received under host community agreements with marijuana establishments, to fund various community programs under an application and approval process to be administered by the Town Manager.

Town Manager Mark Pruhenski spoke on this article.

VOTED AT 8:35 PM

ARTICLE 12: (majority)

On a motion by Anne O'Dwyer and seconded by Michelle Loubert, that the Town raise and appropriate \$25,000 to support the operation of the Southern Berkshire Ambulance service (Southern Berkshire Ambulance Squad, Inc.).

VOTED AT 8:36 PM

ARTICLE 13: (majority)

On a motion by Anne O'Dwyer and seconded by Stephen Bannon, that the Town raise and appropriate \$65,000 to fund the Fiscal Year 2022 tuition and transportation costs for out of district vocational education, in accordance with Chapter 74 of Massachusetts General Laws.

VOTED AT 8:37 PM

ARTICLE 14: (4/5 majority)

On a motion by Anne O'Dwyer and seconded by Stephen Bannon, that the Town authorize the payment of prior fiscal year invoices from the FY21 operating budgets of various Town departments as follows:

DEPARTMENT OF PUBLIC WORKS:
\$427.83 to the Great Barrington Fire District
\$325.00 to Andrus Power Solutions
\$87.00 to the Great Barrington Fire District
\$690.50 to Lapinski Electric, Inc.
\$7,330.00 to Haupt Tree Company

Account Number:
01192-52310
01192-52700
01422-52115
01422-52490
01422-53810

WASTEWATER DIVISION:

Account Number:

\$792.00 to GIR USA, Inc.
\$58.89 to the Great Barrington Fire District

60442-52400
60442-52310

TECHNOLOGY:
\$1,000.00 to Halligan

Account Number:
01136-53000

VOTED by 4/5ths MAJORITY AT 8:38 PM

ARTICLE 15: (majority)

On a motion by Anne O’Dwyer and seconded by Leigh Davis, that the Town appropriate and authorize the transfer of \$200,000 from Free Cash for deposit into the Stabilization Fund.

VOTED AT 8:39 PM

ARTICLE 16: (majority)

On a motion by Anne O’Dwyer and seconded by Stephen Bannon, that the Town appropriate and authorize the transfer of \$200,000 from Free Cash for deposit into the Capital Stabilization Fund.

VOTED AT 8:40 PM

ARTICLE 17: (2/3 majority secret ballot)

On a motion by Anne O’Dwyer and seconded by Stephen Bannon, that the sum of \$1,190,000 is appropriated to purchase land for and construct a municipal parking lot, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectboard, is authorized to borrow \$865,000 under and pursuant to M.G.L. c. 44, §7(1), or any other authority, and to issue bonds or notes of the Town therefor, and \$325,000 shall be transferred from the Sale of Real Estate Fund; and provided that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the Massachusetts General Laws thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

The following people spoke on this article:

Mark Pruhenski	Dale Culleton
Pedro Pachano	Holly Hamer
Denise Forbes	Anne O’Dwyer
Betsy Andrus, SBCC Director	Stephanie Boszko
Eileen Mooney	Christopher Rembold
Garfield Reed	Mark Cohen
Anne O’Dwyer	Jennifer Clark
Janice Martinson (on behalf of Mahaiwe)	James Harris
Laurie Harrison	Michael Citrin
Jorge Alcala	Daniel Bailly

The Moderator stated this vote had to be by secret ballot and a 2/3rds majority. He then asked for the voters to use their green yes/no cards to vote on this article and asked the tellers to collect the cards from the voters.

MOTION FAILED by 2/3rds SECRET BALLOT AT 9:38 PM

YES – 47 NO – 68

ARTICLE 18: (majority)

On a motion by Karen Smith and seconded by someone in the audience, that the Town appropriate from the Community Preservation Fund annual revenues the following amounts recommended by the Community Preservation Committee for committee administrative expenses in FY22, and reserve for future appropriation for community preservation projects the following reserve amounts, with each item to be considered a separate appropriation:

Reserves:

From FY22 revenues for historic resources reserve	\$ 60,000
From FY22 revenues for community housing reserve	\$ 60,000
From FY22 revenues for open space reserve	\$ 60,000

Appropriations:

From FY22 revenues for administrative expenses	\$ 20,000
Balance of FY22 revenues for FY22 budgeted reserve	\$ 345,000

Karen Smith spoke on this article.

VOTED AT 9:22 PM

ARTICLE 19: (majority)

On a motion by Karen Smith and seconded by Stephen Bannon, that the Town appropriate from the Community Preservation Fund for FY22 and the fund balance the following amounts recommended by the Community Preservation Committee, with each item to be considered a separate appropriation:

Project		Total Appropriation	Source of Appropriation	
			FY22 Revenues	Fund Balance
	<i>Affordable Housing</i>			
1	Construct, Inc., for a rental assistance program and a microloan program	\$50,000	\$50,000	
	Subtotal, Affordable Housing	\$50,000		
	<i>HISTORIC RESOURCES</i>			
2	Town, Historical Commission, for historic properties research and documentation	\$6,000		\$6,000
3	Town, for archeological study at the Ramsdell Library	\$9,800		\$9,800
4	First Congregational Church of Great Barrington, for restoration of stone and masonry walls at the Manse	\$240,859	\$240,859	
5	Mahaiwe Performing Arts Center, to replace emergency exit doors	\$15,000	\$15,000	
6	Clinton Church Restoration, Inc., for second phase of restoration work	\$200,000	\$200,000	
	Subtotal, Historic Resources	\$471,659		
	<i>OPEN SPACE & RECREATION</i>			
7	Town, for improvements to the Housatonic Rail Trail	\$30,000		\$30,000

8	Town, for Lake Mansfield water quality studies	\$70,000		\$70,000
9	Conservation Commission for the McAllister Wildlife Refuge preservation project	\$31,300	\$31,300	
	Subtotal, Open Space & Recreation	\$131,300		
	TOTAL	\$652,959	\$537,159	\$115,800

Assistant Town Manager Christopher Rembold spoke on this article.

The Moderator stated he would go line by line and if there were any holds for the voters to call out and then would vote on all non-held items, after which we would have discussions on the held items.

The held items were:

#8 Mary Beth Merritt and Christopher Rembold spoke on this item.

#9 Krystyna Kurzyca, Mary Beth Merritt and Shepley Evans spoke on this item.

A motion was made by Mary Beth Merritt and seconded by someone in the audience to delete #9 (\$31,300) from Article 19. The Moderator asked for a vote on this amendment and stated it needed a majority vote.

AMENDMENT FAILED AT 9:35 PM

The Moderator asked if there was any other discussion and there was none so he asked for a vote on the main motion.

VOTED AT 9:36 PM

ARTICLE 20: (majority)

On a motion by Karen Smith and seconded by someone in the audience, that the Town amend the vote taken under Article 19 of the Warrant for the Annual Town Meeting held on June 22, 2020, which approved the appropriation of \$185,000 from FY21 Community Preservation Act revenues to the Great Barrington Affordable Housing Trust Fund for the purpose of acquiring land on North Plain Road for affordable housing, so as to permit the expenditure of the unexpended balance of the appropriation for design, engineering and/or other predevelopment expenses for an affordable housing project on that acquired land.

Assistant Town Manager Christopher Rembold spoke on this article.

VOTED AT 9:38 PM

ARTICLE 21: (majority)

On a motion by Stephen Bannon and seconded by someone in the audience, that the Town amend Chapter 91 of the Great Barrington Code, Town Clerk's Fees, by revising the fees listed in section 91-1, Schedule, for birth certificates, death certificates, and marriage certificates as shown in the warrant for this Town Meeting.

Town Clerk Jennifer Messina spoke on this article.

VOTED AT 9:32 PM

ARTICLE 22: (2/3 majority)

On a motion by Stephen Bannon and seconded by someone in the audience, that the Town accept as a town way in Great Barrington that portion of Manville Street which was discontinued by the vote under Article 17 of the Warrant for the Annual Town Meeting held on May 7, 2018, that is, Lots 2A, 3A, 5A, and 6A as shown on a plan entitled "Plan of Land Surveyed for 26 Manville LLC Great Barrington, Massachusetts" and dated March - 2021, which is on file with the Town Clerk, and authorize the Selectboard to acquire, by gift and for no consideration, easements in that portion of the street for all the usual purposes of a public way in the Town.

Assistant Town Manager Christopher Rembold spoke on this article.

**VOTED by 2/3rds MAJORITY AT 9:44 PM
UNANIMOUS**

ARTICLE 23: (majority)

On a motion by Stephen Bannon and seconded by Leigh Davis, that the Town authorize the Selectboard to enter into a Tax Increment Financing (TIF) Agreement, Tax Increment Financing Plan and/or a Special Tax Assessment Agreement and related agreements, with 79 Bridge Street Realty, LLC, or its Nominee, pursuant to the provisions of MGL Chapter 40, Section 59, in connection with the redevelopment of the property at 79 Bridge Street, Great Barrington; and authorize the Selectboard to negotiate the final terms of and execute any such agreements and plan, and any documents relating thereto, and to take such other actions as are necessary or appropriate to implement the agreements and the plan pursuant to the provisions of MGL Ch. 40, § 59 or any other enabling authority, including submission of all necessary or required applications and documents to the Economic Assistance Coordinating Council of the Commonwealth of Massachusetts.

Assistant Town Manager Christopher Rembold spoke on this article.

VOTED AT 9:46 PM

ARTICLE 24: (2/3 majority)

On a motion by Jonathan Hankin and seconded by someone in the audience, that the Town amend the Zoning Bylaw as set forth in Article 24 of the warrant for this Town Meeting.

Purpose of the Amendment: These amendments will update the rules for the B-3 zone, which was adopted in 2007 in order to stimulate development at two large, abandoned sites—the former Searles-Bryant school and the Log Homes property—both on Bridge Street.

While well intentioned and aspirational in nature, in fact, the B-3 zone has not served its primary purposes. The current regulations are a set of design controls, open space and affordable housing bonus provisions, and strict parking requirements, all wrapped into a complicated special permit process. The B-3 zone also included several lots on Church and School Street, none of which is large enough to lend itself to the sort of transformative development that the B-3 zone was designed to encourage; unfortunately, the B-3 rules could be used in a way to demolish small existing buildings in order to build new.

Fifteen years since its passage, both of the key campus sites have been partially developed, and permits are in place that would enable more development to be completed. Bryant was saved and reused, and Searles is permitted to be saved and reused as a hotel. Affordable housing was built on the Log Homes site and will be occupied by the time of the 2021 Annual Town Meeting, and riverfront open space has been preserved for public enjoyment on both sides of the River. The forward progress in this zone has come not because of the B-3 zone provisions but despite them.

The Planning Board proposes to update the regulations to clarify the purpose of the zone and significantly streamline the development process

Proposed additions are underlined
Proposed deletions are ~~struck through~~

Amend Section 9.4 as follows:

9.4 DOWNTOWN MIXED-USE B3 DISTRICT

9.4.1 Purpose. The Downtown Mixed-Use B3 District is a transitional area between the downtown business core and ~~the~~ residential neighborhoods. It is designed to protect the traditional character of these respective areas ~~and~~ to assist in revitalizing, ~~preserving, and expanding~~ the larger tracts of former industrial land in this area, and to allow parcels to contain a mix of uses, either vertically or horizontally, to promote a variety of housing and business opportunities. ~~character of the traditional downtown core. The district is designed to enhance the downtown by providing a pleasing mix of land uses that work together and result in a lively, prosperous town center, that serves as an attractive place to live, work, shop, and recreate. Mixed uses may occur vertically or horizontally. Development and redevelopment in the district is intended to respect the traditional scale, massing, and character of the downtown.~~ The district is intended to foster the redevelopment of existing buildings or redevelopment that creates a positive pedestrian environment with active pedestrian amenities. Specific objectives of the Downtown Mixed-Use District are to:

1. Allow for different types of compatible land uses close together or in the same building to encourage pedestrian and public transit travel and reduce the use of personal automobiles;
2. Encourage infill and redevelopment of commercial, residential, and mixed-use development while preserving and enhancing the overall character of the district;
3. ~~Allow flexibility in development standards in recognition of the challenge of developing~~ Encourage the development of small scale mixed-use buildings;
4. Encourage shared parking to promote a compact walkable town center, maximize pedestrian safety, and minimize the number of curb cuts.
5. ~~Maintain or increase the supply of affordable dwelling units.~~

9.4.2 Location. The Downtown Mixed-Use B-3 District is shown on a map entitled "Proposed B3 District," which is hereby incorporated into the Zoning Bylaw, and includes the following land as shown on the 2006 Great Barrington Assessors' Maps:

Map 19	Parcels 118, 119, 120, 121, 127, 128, 130, 135A, 136, 137, 138, 138A, and 139
Map 20	Parcels 2, 5, 8, 8A, 12, 12A, 13, 14, 15, 16, 17, and 61

~~**9.4.3 Definitions.** For the purposes of this Section, the terms defined in Section 11, "Downtown Mixed Use B3 District" shall apply.~~

9.4.43 Permitted Uses. Permitted uses in the Downtown Mixed-Use B3 District are enumerated in Section 3.1.4, the Table of Use Regulations. The permitted uses are intended to promote multifamily residential uses, mixed uses and compatibility between residential and nonresidential uses.

Projects that incorporate both multifamily residential uses or assisted living facilities with any of the following non-residential uses, where at least 25% of the street-level floor space is utilized for these non-residential uses, shall be

considered Mixed Use for this district, and shall be permitted by-right, subject to Site Plan Review, notwithstanding the permissions set forth for any individual use in Section 3.1.4:

- (1) Offices, including medical offices
- (2) Retail stores, including banks, but excluding stores and establishments with drive-through windows
- (3) General service establishments and/or personal service establishments
- (4) Bakeries and/or artisan food or beverage producers
- (5) Restaurants and cafes, indoor or outdoor
- (6) Community, education, or recreational uses, including museums, parks, playgrounds, health clubs and gym/fitness centers
- (7) Municipal buildings and facilities.

9.4.54 Dimensional Requirements. Dimensional requirements in the Downtown Mixed-Use B3 District shall be as set forth in Section 4.0. ~~The dimensional requirements reflect the proximity to downtown.~~

~~1. The maximum number of dwelling units permitted by right shall be based on a minimum area of 2,500 square feet of land per dwelling unit, except that one two-family dwelling may be permitted on a lot of at least 5,000 square feet. The minimum area of land required per dwelling unit may be reduced through incentives described in this section and granted by special permit.~~

~~**9.4.6 Open Space.** The Minimum open space required shall be 20% of the total lot area, subject to reduced requirements earned through incentives described in this section and granted by special permit. For the purpose of this section, "open space" shall be defined as yards, playgrounds, walkways and other areas not covered by parking and driveways; such open space need not be accessible to the public.~~

~~**9.4.75 Parking.** Parking requirements for residential dwelling units shall be one parking space for each unit. No parking space shall reduce the effective width of a driveway providing access to more than one dwelling unit to less than 12 feet. In the event the parking spaces cannot be provided on the property, deviation from this requirement may be permitted in accordance with Section 6.1.9. The off-street parking requirements in Section 6.1 shall not apply in the B-3 District except as provided in this section. Off-street parking requirements in the B-3 District shall be as follows:~~

1. For new buildings, required off-street parking spaces shall not be located within the front yard area.
2. Only one space shall be required for any dwelling unit, whether in residential-only or in mixed-use buildings.
3. For permitted uses in existing buildings (those in existence as of May 1, 2021) that are not substantially expanded, the existing parking spaces shall be retained, but no new spaces shall be required. A substantial expansion is defined, for the purpose of this section, as one which involves increasing the gross floor area of a structure by more than 25% or 500 square feet, whichever is less.
4. For permitted uses in new buildings or existing buildings that are substantially expanded, as defined in this section, or for any building greater than 5,000 square feet gross floor area, parking is required as follows:
 - (a) one parking space shall be required for each dwelling unit;
 - (b) the parking requirements for business or industrial uses in Section 6.1.2 through 6.1.6 shall be calculated as follows: the sum of the required parking for each use multiplied by 0.5 with the product rounded down to the nearest whole number, plus handicapped parking as may be required by law or building code (Example: 3 spaces required for retail, 4 spaces required for offices: $(3 + 4) \times 0.5 = 3.5$, so 3 spaces, + 1 handicapped space, = 4 spaces are required); and
5. The parking requirements of paragraphs 2, 3, or 4 of this section may be waived if the SPGA grants a special permit pursuant to section 6.1.9.

9.4.86 Site Plan Review. All redevelopment and development on a parcel or parcels in excess of 10,000 square feet of land shall be subject to site plan review by the Planning Board. No building permit for such a development shall be issued by the Building Inspector until the Planning Board has conducted site plan review in accordance with Section 10.5.

9.4.97 Special Permit. Uses indicated in the Table of Use Regulations, ~~and any development or redevelopment in excess of 20,000 square feet of gross floor area, regardless of use,~~ shall require a special permit. ~~A special permit shall be required for any project seeking to use the density or open space incentives defined in this section.~~ The Selectboard SPGA may grant a special permit in accordance with the provisions of Section 10.4.

9.4.10 Development Incentives. ~~To encourage specific attributes of development beneficial to the Town, the following incentives are offered by special permit.~~

~~1. Incentives for mixed use. Due to the proximity of this B3 District to the downtown core, and to promote the public enjoyment of development in this district, the following incentives are offered to promote mixed use, affordable housing, community supporting activities, river appreciation and community open space. Uses may simultaneously qualify for one or more incentives defined in this subsection.~~

~~2. Density incentives reduce land area per dwelling unit as set forth in Section 9.4.5. The maximum density incentive is a 50% reduction in required land area per dwelling unit.~~

~~a. Mixed use: for each 1,000 square feet of nonresidential use, reduce the minimum land area required per unit by 1%.~~

~~b. Affordable housing: for each unit of affordable housing reduce the minimum land area required by 5%.~~

~~c. Density incentives are cumulative.~~

~~3. Open space incentives reduce total open space requirements as set forth in Section 9.4.7. The maximum open space incentive is a 50% reduction in total open space requirement.~~

~~a. Community supporting activity: for the first use that the SPGA certifies as a legitimate community supporting activity, reduce the minimum open space required per unit by 5%. For additional uses occupying at least 1,000 square feet that the SPGA certifies as a legitimate community supporting activity, reduce the minimum open space required per unit by 5% for each 1,000 square feet. For the purpose of this section, a "community supporting activity" is defined as use or ownership by either a nonprofit organization or an educational or arts organization which provides services to the community.~~

~~b. River appreciation: for a nonresidential use that facilitates the public enjoyment of the riverfront, as determined by the SPGA, reduce the minimum open space required per unit up to 15%.~~

~~c. Community open space: for a nonresidential use that allows permanent public access to open space within the development, as determined by the SPGA, reduce the minimum open space required per unit up to 15%.~~

~~d. Open space incentives are cumulative.~~

9.4.11 Affordable Housing. ~~To promote the development of affordable housing units in the Town. All new residential development in this district containing more than four dwelling units shall contribute to affordable housing.~~

~~1. New construction of more than four and fewer than 10 dwelling units shall include either: A contribution to an established Municipal Affordable Housing Trust Fund to be used for the development of affordable housing in accordance with this Section; or construction and offering of at least one affordable unit within the development in accordance with this Section.~~

~~2. Any project of 10 or more dwelling units shall designate 10% of the units within the development as affordable units, and includes a contribution to the Municipal Affordable Housing Trust fund for fractional units as defined herein~~

~~The Building Inspector shall not issue a building permit or the SPGA shall deny any application for a special permit for development or redevelopment under this section if the applicant does not comply with the following requirements:~~

~~1. For construction of 10 units or any multiple of 10, one of each 10 units shall be an affordable unit. For each unit sold prior to provision of the required affordable housing units, a performance security, in the amount of 3.5% of the sales price of each unit, shall be placed in escrow to be held by the Municipal Affordable Housing Trust Fund. Such contributions to escrow shall be made at time of closing for each unit sold and shall be returned to the developer in proportion to the completion of the affordable housing units. For purposes of this section, "completion" means a certificate of occupancy under the State Building Code has been issued.~~

~~2. When the total number of units is not evenly divisible by 10, applicants under this section shall either:~~

~~a. Construct one additional affordable unit in addition to those required pursuant hereto; or~~

~~b. Contribute, at time of closing, 3.5% of the sales price of each fractional unit to the Municipal Affordable Housing Trust Fund. Fractional units are determined as follows:~~

~~1. For construction of more than four but less than 10 dwelling units, the number of fractional units is the total number of units.~~

~~2. For construction of more than 10 units or any multiple of 10, the number of fractional units is determined by subtracting the largest multiple of 10 from the total number of units.~~

~~3. Income and asset limits for purchasers or renters: To ensure that only eligible households purchase or rent affordable housing units, the purchaser or renter of an affordable unit shall be required to certify that his/her annual income does not exceed 80% of the area wide median household income adjusted for household size, as determined by the United States Department of Housing and Urban Development ("HUD") and using HUD's rules for attribution of income to assets, as may be revised from time to time.~~

~~4. The maximum housing cost for affordable units created under this section shall be as set forth in the Local Initiative Program Guidelines of the Massachusetts Department of Housing and Community Development ("DHCD"), dated November 2006, or as subsequently amended.~~

~~5. Preservation of affordability. Each affordable unit created in accordance with this section shall have limitations governing its resale. The purpose of these limitations is to preserve the long term affordability of the unit and to ensure its continued availability for low and moderate income households.~~

~~6. The developer or redeveloper of any project under this section shall execute and properly record a LIP Regulatory Agreement and Deed Rider in the form required under the Local Initiative Program Guidelines, which constitute "affordable housing restrictions" as defined in G.L. c. 184, s. 31, and provide for affordability in perpetuity.~~

~~7. The purchaser of any affordable unit under this section shall execute and properly record an Affordable Housing Deed Rider for Projects in Which Affordability Restrictions Survive Foreclosure, or as it may be subsequently amended, in the form used for so-called Local Action Unit (LAU) homeownership projects under the regulations of the DHCD. This deed rider establishes the formulas for maximum resale price, and provides an option to purchase to the municipality if an eligible purchaser cannot be found.~~

~~**9.4.12 Affordable Housing; Specific Requirements.** The purpose of this subsection is to provide for the development of affordable units in compliance with various initiative programs developed by state and local government. This subsection does not apply to construction of four or fewer dwelling units on the same lot. Provided that there are more than four dwelling units in a development subject to this Section, at least 10% of the units shall be established as affordable units:~~

- ~~1. Affordable housing units shall be constructed and made available for occupancy coincident with and in proportion to the development of market rate units.~~
- ~~2. All affordable units shall be situated within the development in no less desirable locations than market rate units in the development;~~
- ~~3. All affordable units shall be no less accessible to public amenities, such as open space, than the market rate units;~~
- ~~4. All affordable units shall be integrated with the rest of the development;~~
- ~~5. All affordable units shall be compatible in design, appearance, construction and quality of materials with other units; interior features of affordable units shall comply in all respects to the minimum design and construction standards set forth in Section III of the Local Initiative Program Guidelines cited below.~~

~~**9.4.13 Affordable Housing Units; Marketing Plan.** Applicants under this section shall submit a marketing plan to the Building Inspector or SPGA for approval, which describes how the affordable units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants and shall comply with all applicable provisions of state law regarding marketing of, and tenants or buyer selection for, affordable units.~~

- ~~1. Local preference shall be given to the maximum extent permitted by law.~~

Amend the Column for the B3 district in Section 3.1.4, Table of Use Regulations, as follows

Permitted Use		ZONING DISTRICT
		B3
A. Residential uses		
(1)	Dwelling, Single family	Y
(2)	Dwelling, Two-family	Y ²
(3)	Dwelling, multifamily 3 to 8 units	Y
	9 units or more	Y
(4)	Assisted living residence	PB -Y
(5)	Live/work units	Y
(6)	Lodging house or tourist home for transient guests	SB
(7)	Mixed use	SB Y
(8)	Open Space Residential Development	N
(9)	Planned unit residential development (PURD)	SB
(10)	Publicly Financed Nonprofit Age-Restricted Housing	SB -Y
(11)	Trailer or mobile home	N
B. Community, educational, & recreational uses		
(1)	Camping facilities	N
(2)	Cemeteries	N
(3)	Child care center	Y
(4)	Clubhouses or fraternal lodges not conducted for profit	SB
(5)	Commercial amusements, fairgrounds	N
(6)	Community center operated by a municipal or private not-for- profit organization	SB
(7)	Educational use, exempt	Y
(8)	Educational use, nonexempt	SB
(9)	Golf or country clubs	N

Permitted Use		ZONING DISTRICT
		B3
(10)	Hospitals, sanitariums, nursing or convalescent homes or philanthropic institutions, provided that no principal building so used shall be within 50 feet of any lot line	SB
(11)	Municipal parks and playgrounds, including recreational buildings therein	Y
(12)	Public libraries, public museums, municipal buildings and facilities	Y
(13)	Riding stables on less than 5 acres, provided that any buildings or structures are set back not less than 50 feet from any lot line	N
(14)	Ski tows, provided that any buildings or structures are set back not less than 50 feet from any lot line	N
(15)	Summer camps operated for children on sites not less than 10 acres in area	N
(16)	Use of land or structures for religious purposes	Y
C. Office, retail and consumer service establishments		
(1)	Banks and other financial institutions	Y
(2)	Fast-food eating establishments	N
(3)	Fuel storage and sales, excluding motor vehicle fuel stations	N
(4)	Garages, public	SB
(5)	Garden centers, including associated landscaping services	Y
(6)	General service establishment	SB
(7)	Greenhouses, commercial, on less than 5 acres, provided that no heating plant for a greenhouse shall be within 50 feet from any side or rear lot line	Y

Permitted Use		ZONING DISTRICT
		B3
(8)	Hotels	SB
(9)	Institutional administrative offices or planned professional office developments or research centers, provided that in R2 & R4 Districts such uses are subject to special requirements	SB
(10)	Kennel	SB
(11)	Large-scale commercial development	SB-N
(12)	Lumberyards	SB-N
(13)	Marijuana Establishment, Retail and Medical Marijuana Treatment Center	Y
	Marijuana Establishment, Cultivation *	N
	Marijuana Establishment, Manufacturing	SB
(14)	Motels or overnight cabins	SB
(15)	Motor vehicle fuel station	N
(16)	Motor vehicle general and body repair	N
(17)	Motor vehicle sales rooms including used car lots	N
(18)	Offices	Y
(19)	Parking lots, commercial	SB
(20)	Personal service establishment	Y
(21)	Professional offices	Y
(22)	Restaurants and other places for serving food, other than fast-food eating establishments	SB
(23)	Retail stores or centers and/or wholesale sales and service with total aggregate floor area less than or equal to 20,000 square feet	Y
(24)	Retail stores and shops for custom work or making of articles sold on the premises	Y
D. Agricultural uses		

Permitted Use		ZONING DISTRICT
		B3
(1)	Agriculture, as defined by MGL c. 40A, s. 3, on tracts larger than 5 acres, including sales of products raised on premises on stands or structures erected in accordance with front yard setback requirements, provided that soil fertilizer shall be stored not less than 100 feet from any lot line, unless kept in air-tight containers	Y
E. Utilities, communication and transportation		
(1)	Aviation field, public or private	N
(2)	Essential services	Y
(3)	Freight terminals, truck or rail	N
(4)	Low-power FM broadcast radio licensed by FCC	
	a	Y
	b	SB
(5)	Passenger stations	SB
(6)	Personal wireless tower or structure as a principal (or accessory) use in the Overlay District, and the initial and any subsequent personal wireless service facility located upon that tower or structure (see Section 9.3 of this Bylaw)	
(7)	Solar Energy Systems:	
	Roof-mounted (any size)	Y
	Accessory use, up to 750 sf project area ⁶	Y
	Accessory use 750 sf project area or larger ⁶	Y
	Commercial scale	PB
F. Industrial, manufacturing and storage uses		
(1)	Contractor's and Landscaper's yards	N

Permitted Use		ZONING DISTRICT
		B3
(2)	Gravel, loam, sand and stone removal for commercial purposes	N
(3)	Light manufacturing	SB
(4)	Saw (log) mill and manufacture of forest products, provided that any saw (log) mill shall be located at least 200 feet from any lot line, and no piles of sawdust or other refuse shall be maintained within 100 feet of any lot line	N
G Accessory uses		
(1)	Any structure or use customarily incidental and subordinate to the principal permitted use in the district	Y
(2)	Accessory Dwelling Unit	Y
(3)	Home occupation (low impact)	Y
(4)	Adult day care	PB
(5)	An accessory use to a by-right use, whether or not on the same parcel, which is necessary in conjunction with scientific research or development or related production, provided that the SPGA finds that the proposed accessory use does not substantially derogate from the public good	SB
(6)	Drive-up or drive-through facilities	SB
(7)	Family day care (small)	SB -Y
(8)	Family day care (large)	SB
(9)	Home occupation (moderate impact)	SB
(10)	Incidental stripping of sod or removal of topsoil, gravel, loam, sand, stone or other earth materials	Y

Permitted Use		ZONING DISTRICT
		B3
(11)	Keeping of horses, for whatever purpose, subject to Board of Health regulations and only on lots of 5 acres or more	Y
(12)	Private garage or off-street parking for private automobiles registered at the premises	Y
(13)	Swimming pools, inground or aboveground. Pool must be equipped with safety covers, alarms, fencing, or other means of protection as required by the Building Code, so designed and built to restrain entry by unauthorized persons.	SB - <u>Y</u>
(14)	Wind Energy Generator	SB

Amend Section 11, Definitions, by deleting the following

~~DOWNTOWN B3 MIXED USE DISTRICT:~~ The following definitions apply in the Downtown Mixed Use B3 District:

~~AFFORDABLE UNITS:~~ Housing units that are affordable to and occupied by individuals and families whose annual income is less than 80% of the area wide median income as determined by HUD, adjusted for household size and using HUD's rules for attribution of income to assets. Affordability shall be assured in perpetuity through the use of an affordable housing restriction as defined in G.L. c. 184, s. 31. Affordable units shall 1) meet the standards set out in 760 CMR 45.03, Local Action Units, as set forth in 760 CMR 45.00, Local Initiative Program, and further described in the DHCD's Local Initiative Program Guidelines, dated November 2006, or as subsequently amended; or 2) be created as affordable units within an approved MGL c. 40B Comprehensive Permit application. Such units shall be created and restricted so as to be eligible for inclusion, as low or moderate income units, on the Town's Subsidized Housing Inventory as maintained by the DHCD.

~~COMMUNITY SUPPORTING ACTIVITY:~~ Activity sponsored by a nonprofit or educational or arts organization that provides services to members of the community either directly (for example, by providing medical services at a reduced cost) or through programs available to community members (for example, by offering theater programs, or classes in which community members may participate).

~~MUNICIPAL AFFORDABLE HOUSING TRUST FUND:~~ A trust fund established by the Town in accordance with G.L. c. 44, s.55C for the specific purpose of providing for the creation and preservation of affordable housing in the Town for the benefit of low and moderate income households.

~~**QUALIFIED PURCHASER:** An individual or family with household income that does not exceed 80% of the area median income, with adjustments for household size, as reported by HUD and the DHCD's Local Initiative Program.~~

~~**QUALIFIED TENANT:** An individual or family with household income that does not exceed 60% of the area median income, with adjustments for household size, as reported by HUD and the DHCD's Local Initiative Program.~~

Planning Board member Jonathan Hankin spoke on this article.

VOTED by 2/3rds MAJORITY AT 9:48 PM

Motion to adjourn by someone in the audience and seconded by someone in the audience.

MEETING ADJOURNED AT 9:49 PM

Respectfully submitted,



Jennifer L. Messina

Town Clerk

Total Registered Voters: 5,087

Total Voters: 191 (3.7%)