

Barrington Planning Board Meeting
January 5, 2010 - 7:00 PM
First Public Hearing for Zoning Changes
Meeting Room, Town Administration Building

Members present: Chairman John Huckins
Alan Kelley
David Mott
Dawn Hatch (Alt)

Residents present: Michael Hastings & Pam Failing – Conservation Commission
Stephen Jeffery

Chairman Huckins opened the meeting at 7:00 PM. He introduced the members. He stated that Alternate Dawn Hatch will fill in for full member Edward Lemos. The meeting was taped for future reference. The public hearing was opened. Chairman Huckins read the first amendment.

Amendment # 1– Dimensional Requirements, Standards for the GR and NR District.

Huckins said the change was going from 35,000 square feet of contiguous upland soil to 40,000 square feet of contiguous upland soils and eliminating the 60,000 square feet of upland. Huckins said that the Town had 5 districts where there used to be 2.

Huckins said that we were increasing the amount of contiguous upland to 40,000 square feet and eliminating the need for 60,000 free of hydric soils open water, bogs, marshes, rivers, streams, or exposed ledge.

Kelley made a motion to present Amendment # 1 as presented, seconded by Mott, all in favor.

Amendment # 2 - Dimensional Requirements, Standards for the GR and NR District.

Huckins said a duplex needed 80,000 square feet for a lot with 40,000 square feet of contiguous upland soils and 20,000 square feet for the second unit. Jeffery asked why we were changing it. Huckins said for a duplex a lot would have to be 4 acres of contiguous upland. He said that the increase meant non-jurisdictional soils. Mott said anything beyond a duplex would need site review. He said the increase in what was presented would make more contiguous upland on a lot without the pockets of land free of hydric a.

Huckins said that the Board could not see any value to pockets of uplands on a lot. He said the buildable area would be greater with the 40,000 square foot requirement.

Jeffery said he could not see removing the ledge requirement. He said without it the area for building could be mostly ledge. He said one could run into problems. Huckins said that the 50 foot wetland buffer would have to be met as well an all state and local requirements.

Mott said he could see what Jeffery was talking about and it made sense. He said the sizing and loading for a septic system does not have to be contiguous. Huckins said if ledge was present the State would pick up. Jeffery said that the ledge should not be included in the upland soils.

Mott explained lot sizing and the buffer. He said that the larger contiguous upland and the 50 foot buffer protected the wetlands well. Mott said the State requires 1 testpit and the Town requires 2. He said that the State looked at every lot. Failing explained her thoughts. She made examples of lot requirements on the Board.

The members agreed to add **free of exposed ledge** both Amendment 1 and 2. Huckins said that this wording was in the existing zoning of 2008. Kelley said he thought that we should state that the 20,000 square feet did not have to be contiguous. He made a motion to add 20,000 square feet that did not have to be contiguous, it was not seconded. Hatch said this was not stated in the existing language and have never caused a problem. Kelly agreed after reading the existing ones.

Mott made a motion to add **free of exposed ledge to Amendment 1 and 2**, and present it to the voters seconded by Hatch, all in favor. Huckins said that he felt that the way it was written it would be clearer and to change it could add confusion.

AMENDMENT 3. Section 5.1: Nonconforming Lots. (Add new section)

Huckins said that the reason for this change was to make it so a person that was improving a non-conforming lot, for example making it larger would not have to go before the Zoning Board. He said Attorney Whitelaw had created 2 sections that we felt would address most of the non-conforming lot line changes. Huckins said if a lot was being made larger it was an improvement that the Board supported. Jeffery said the wording should be underlined as it was a new section. Hatch made a motion to present as written with the wording underlined, seconded by Mott, all in favor.

Section 5.1.4: Lot Line Adjustments Involving Non-Conforming Lots

Lot line adjustments involving one or more contiguous lots of which one or more lots are nonconforming in area, are permitted only in the following circumstances:

- 1) (a) The lot line adjustment does not create a new violation of the zoning ordinance or increase an existing nonconformity;
(b) The lot line adjustment does not result in a change of the total area of any of the involved lots; and
(c) The lot line adjustment does not decrease the size of a nonconforming lot or render a conforming lot nonconforming.

OR

- 2) (a) The lot line adjustment does not create a new violation of the zoning ordinance or increase an existing nonconformity;
(b) The lot line adjustment results in an increase in the size of one or more nonconforming lots; and

(c) The lot line adjustment does not decrease the size of a nonconforming lot or render a conforming lot nonconforming.

AMENDMENT 4. Section 9.5: Wetland Buffers Areas Required. (Move Section 9.5.1(5) to be last paragraph of Section 9.5; Add Section 9.5.1.(4); Renumber existing Section 9.5.(4); amend language in Section 9.5.1.(3);)

Huckins said that this section was changed to place it where it should be located from 9.5.1.5

9.5 Wetland Buffer Areas Required

The following features shall not be construed as wetlands with regard to designating buffer areas under the provisions of this Ordinance:

- (a) Manmade ditches and swales
- (b) Sedimentation/detention basins or ponds
- (c) Manmade agricultural/irrigation ponds and swales
- (d) Fire ponds and cisterns
- (e) A septage or manure lagoon
- (f) Silage pits
- (g) An isolated wetland or surface water of 3000 square feet or less that does not meet the definition of a swamp, marsh, bog, or vernal pool.

9.5.1(3) ~~Driveway~~ Wetland crossings that would fall under the New Hampshire Department of Environmental Services Administrative Rules, ~~303.04, as amended, that expedites certain types of wetland crossings may be permitted.~~

Jeffery asked if the Board had considered using the requirement of a 100 year storm. Mott said the State was not pleased with the present wording and was working on changes. Huckins said road crossings require 100 year storm calculations but this was included in the Subdivision Regulations which the Board would address after the zoning was completed.

Jeffery said that FEMA would update 100 year storm effects on structures to meet the 125 year storm event so that structures would not be damaged at any cost to a community. Huckins asked Jeffery if he would get this in writing to go along with the road update information. Jeffery said he would see what he could find.

~~9.5.1.5 The following features shall not be construed as wetlands with regard to designating buffer areas under the provisions of this Ordinance.~~

- ~~===== (a) Manmade ditches and swales~~
- ~~===== (b) Sedimentation/detention basins or ponds~~
- ~~===== (c) Manmade agricultural/irrigation ponds and swales~~
- ~~===== (d) Fire ponds and cisterns~~
- ~~===== (e) A septage or manure lagoon~~
- ~~===== (f) Silage pits~~

~~(g) An isolated wetland or surface water of 3000 square feet or less that does not meet the definition of a swamp, marsh, bog, or vernal pool~~

9.5.1.(4) Wells /well lines

Huckins said that wells and well lines were added as where could there be a better place to locate a well. He said to locate a well in a wetland but not be able to cross the 50 foot wetland buffer made no sense. Failing said that this impact would be temporary while the well was being drilled.

Failing asked what the definition of the wetland buffer was. Huckins said it should be left in its natural state. She asked if tree cutting could be done. Huckins said if cutting took place the stumps could not be removed. He said that logging was under State regulations.

Jeffery read from the Zoning Ordinance concerning wetland buffers. Huckins said the definition of jurisdictional wetlands was quoted from the State Manual. He said this was addressed through the Subdivision and Site Review processes.

~~9.5.1.(4)~~ **9.5.1.(5)** This Ordinance shall not prohibit the construction of principal and accessory structures within the buffer zone on unimproved lots that were approved for subdivision by the Planning Board or which otherwise legally existed on or before March 13, 2001.

Huckins said this section addressed lots that were created before the passing of the changes if it was voted in the affirmative. Lots before March 13, 2001 were not designed to the new changes. He said some of the existing lots could meet the new requirement though.

Hatch made a motion to present Amendment 4 with the word Wetland underlined, seconded by Mott, all in favor.

AMENDMENT 5. Article 17: Definitions (add new definition, amend existing definition)

Huckins said we had added a separate definition for jurisdictional wetlands as stated in the US Army Corp of Engineers Manual.

Jurisdictional Wetlands. Those that are regulated by the US Army Corps of Engineers (Corps) under Section 404 – must exhibit all three characteristics: hydrology, hydrophytes, and hydric soils (ACOE 1987).

Huckins said the list of items shown below were given to the Board by Building Inspector Ted Buczek and taken out of the International Building Codes, Section R105 Permits. Huckins said that this list should make it easier for anyone to know whether what they were building or buying were considered a structure or not. He said there were requirement that some of these things would need permits for in other sections.

Huckins gave an example of a stonewall that needed to be repaired and was located in the lot line. As it appears on this list the work could be done without getting a permit and not be in violation.

Structure. Anything constructed, installed, placed or erected, whether above or below grade. Unless otherwise stated in this Ordinance, ~~signs, stonewalls, septic systems, driveways, parking lots, home propane and heating oil tanks, and fences~~ the following structures are exempt from the building permit requirements set forth in Section 15.4. (1) and shall not be construed as structures for purposes of setback requirements, but shall be so construed for all other purposes:

- (a) signs,
- (b) stonewalls,
- (c) septic systems,
- (d) driveways, sidewalks, parking lots,
- (e) home propane and heating oil tanks,
- (f) one story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, providing the floor area does not exceed 120 sq. ft.,
- (g) retaining walls that are not over 4 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge,
- (h) water tanks supported directly upon grade if the capacity does not exceed 5000 gallons and the ratio of height to diameter or width does not exceed 2 to 1,
- (i) prefabricated swimming pools that are less than 24 inches deep,
- (j) swings and other playground equipment,
- (k) window awnings supported by an exterior wall that does not project more than 54 inches from the exterior wall,
- (l) heating or cooling equipment, and
- (m) fences.

Kelley made a motion to present Amendment 5 with the edits made, seconded by Mott, all in favor.

AMENDMENT 6. Article 17 (New article) WORK FORCE HOUSING

Huckins said this new section was mandated by the State and as it stands a person could do a work force housing project anywhere in Town and we would have to go along with it. He said the Board was presenting this Ordinance to protect the areas that the Town has designated as good for commercial growth. By the Ordinance a work force housing project could be located in the Neighborhood Residential, General Residential Districts and the Village Center.

The Town Center and Regional Commercial District are represented in our Ordinance as places where commercial growth is encouraged. We do not want to have the most desirable commercial lots filled with houses.

Huckins said that a community must provide 51% of the buildable land available for this use. He said in the case of Barrington that would be 80% of the Town.. Huckins said without this Ordinance in place we have no control or say where the projects could

be done and if we do not allow it an applicant to do his project he could take the Town to court.

Huckins said the intent of the Ordinance was to comply with State law but have some say in where this type of housing was allowed. The Board wants to protect the tax base for future commercial and industrial growth.

Failing said it was important to get the word out and educate the residents. Huckins said that the Board would appreciate having the Commission's help. He said it was important for the residents to understand what the intent of the Ordinance was.

Huckins said Planned Unit developments were allowed in the Town Center which meant that residences could be placed over businesses. He said the price of the units had to be based on the ability of the users to pay. Huckins said the costs could not exceed 30% of the person's gross income. He said that we all would have to wait until the requirements were challenged in Court to see how strong it is. He said he hoped it would not be Barrington.

Mott made a motion to present the Work Force Ordinance as written, seconded by Kelley, all in favor.

AMENDMENT 7 Change Article 17 DEFINITIONS to Article 18 DEFINITIONS

Huckins said that Work Force Housing would be inserted as Article 17 with Definitions becoming Article 18. **Kelley made a motion to present Amendment 17 as written.** The public hearing was closed. Huckins said the second public hearing will be held on January 19, 2010 at 7:00 PM.

Business Meeting

Huckins talked with Hastings and Failing of the Conservation Commission concerning holding a joint meeting to discuss transfer of development rights. He said it could take a year or more for an ordinance to be completed. Hastings said that while he was on vacation he would have the time to get input from other communities including ones in Vermont. Huckins said the process might take 2 years. Hastings said in some communities it had been voted in but not used.

Hastings said that the Commission planned on meeting with Amanda Stone in reference to the Lamprey River. He said the information would pertain to other rivers also. Huckins said some of the Board members might want to attend.

The Board will talk with Steve Lenzi as the next person after Marion Noronha on the 14th. Huckins said we might be able to meet with Lenzi on January 28. The meeting adjourned at 9:30 PM, motion by Kelley, seconded by Mott, all in favor.

Dawn Hatch, Clerk

