



BARRINGTON PLANNING BOARD
BARRINGTON ELEMENTARY SCHOOL LIBRARY
570 CALEF HIGHWAY
BARRINGTON, NH

THURSDAY
December 9, 2010
MINUTES

PRESENT: John Huckins, Chair
Edward Lemos, DVM; Vice Chair
Alan Kelley
George Calef
Anthony Gaudiello-Alternate

STAFF: Connie Brawders, Planner
Lisa M. Bradbury, Temporary Staff Transcriptionist

SPEAKERS: Jim Hadley, Chair of Neighborhood Guardians
Pat Newhall – Discussion of status of USA Springs Wetlands Permit
John Wallace, Chair of the Conservation Commission

NOTE: Recorder not turned on until 7:18.

CALL TO ORDER

Planning Board Chair John Huckins called the meeting of the Barrington Planning Board at 7:08 p.m.

ROLL CALL

A formal roll call was conducted confirming members present as stated above. Planning Board Alternate Anthony Gaudiello replaced David Vincent, PB Chair John Huckins to complete the quorum, giving Gaudiello the right to vote.

MINUTES REVIEW AND APPROVAL

1. Planning Board Member Alan Kelley moved to accept the minutes with textual changes to Section 1.1, Page 2, as discussed. PB Member Edward Lemos seconded the motion. The motion carried unanimously with a vote of five (5) to zero (0).

ITEMS FOR DISCUSSION

2. JIM HADLEY, CHAIR OF NEIGHBORHOOD GUARDIANS AND RESIDENT PATRICIA NEWHALL

Jim Hadley introduced himself, saying he's lived in Northwood and for the past 25 years has been working on USA Springs in different capacity—Planning Board, board of selectmen, etc. He stated that he had gone before the Conservation Commission with some of the same material that he handed out to the Board. He mentioned that Pat Newhall had filed an official citizen's petition and that he was there for informational purposes.

Hadley discussed the history and status of USA Springs and their petitions, some of which have expired, to build a water-bottling plant in Nottingham. (The neighboring towns share concerns about how the water table will be affected.) He and Newhall thought this would be the time to adopt a local wetlands conservation district ordinance, a stand-alone ordinance, especially pertaining to prime wetland #40, where Newhall is an abutter, which mirrors an ordinance in the town of Tamworth. He believes that the verbiage of this ordinance would stand up in court. He discussed briefly the Tamworth issue and the ordinance as it was written.

Hadley stated that the ordinance was presented to Laura A. Spector, Esq., and wanted to ask the Board if they thought the Tamworth ordinance would have standing in Barrington.

PB Member George Calef asked if the PB had run the petition through legal. It had been run by Laura Spector, Esq., who questioned what they are trying to accomplish with their petition since the town of Barrington already has a similar, stronger ordinance in place.

Calef stated that the petition was circulated though the polling place and he was witness to signatures that were obtained there. He said that there were about 17 signatures that he thought were illegal; and Hadley and Newhall confirmed that 17 signatures were obtained inside the polling place and were informed of such by the moderator. Calef is also concerned that the attorney might not be aware of this and needs to determine if the 17 illegal signatures would invalidate the petition. The petition would stand if it had 25 legal signatures, but it is illegal to distribute a petition in a polling place. PB Member Calef stated that there was a legal issue with the signatures, and that there might be a legal issue preventing further discussion.

Planner Connie Brawdgers discussed the signatures with Laura Spector, who stated that the petition *would* stand with 25 valid signatures. She further stated that the Town Clerk Sheila Marquette makes the determination on validation of signatures. Calef said that there was no way we could move forward without resolving the technicality in gathering of signatures at the polling place. Chair Huckins agreed, stating that the PB does not have the authority to determine legality or make any changes beyond the PB's scope of authority. The only

actions the Planning Board can take are look at the petition and recommend it or not.

Calef asked if the attorney knew which one of the signatures was the first one illegally obtained, stating that he contends that Atty. Spector does not. Newhall questioned why some of the signatures were illegal, and Calef said that you cannot circulate a petition inside the polling place, stating also, that the moderator upheld the law. Any signatures obtained at the polling place have to be crossed out.

Calef was asked to write a summery and give it to Brawdres who will then forward it to legal counsel. She said he should give the details: he was a witness, the moderator acted on it, etc.

Members of Planning Board and speakers had a thorough discussion of the details of the ordinance presented in the petition. It was compared to the present wetlands ordinance on the Barrington books, stating that nothing can be built on wetlands or within the 50' foot buffer, except for upland crossings. It was also stated that the state of New Hampshire has the final say in regard to wetland usage. Hadley thought the ordinance he presented would have the affect of forcing USA Springs to get a special permit to do their drill tests; even though the proposed plant is trying to build in the neighboring town of Nottingham, the last set of tests done drastically reduced the water table on prime wetland #40, to which Pat Newhall is an abutter.

It was stated that there were many concerns with the petition as presented that the attorney would have to address, therefore the Planning Board needs to know how it is actually going to affect the town of Barrington before making any recommendations. The only ability the Planning Board has during the deliberative session is to recommend the ordinance or not. Reviews of or decisions cannot be made at this meeting. The petition article will be placed on the agenda for discussion at the Tuesday January 4, 2011 Public Hearing.

Newhall and Hadley were aware of current zoning Article 9-Wetlands Protection District Overlay (WDO) in place. They declared the focus of their concern to be potential development by the USA Springs plant in Nottingham and groundwater depletion that could impact Barrington, based on other historical conclusive studies. It is likely within the year 2011 USA Springs will be reapplying to Nottingham for a permit as the company emerges from bankruptcy.

PB member Tony Gaudiello offered for consideration the strength of the current article in place limiting use and development within a wetland. The proposed article weakens the position of current Article 9-Wetlands Protection District Overlay (WDO). Additionally, Planner Brawdres stated that the concern raised by Newhall and Hadley is a regional planning impact of concern and that they should consider further discussions with the regional planning agencies of Strafford and Rockingham County, as well as working in concert with NH Groundwater and the State of NH in creating the enabling legislation the citizens' seek to implement.

Chair Huckins suggested that if the petition did not make it through the deliberative session, it may be presented to the ZBA, Planning Board and concerned parties, bringing all together to discuss strengthening zoning restrictions, such as construction in wetlands.

It was noted that the town may impose stricter control over wetland disturbance than the NH Department of Environmental Services stipulates and the five-year wetlands delineation limitation stipulated by Army Corp of Engineers.

The Planning Board concluded that: 1. the concern for legal technicality of gathering of signatures be summarized by PB member George Calef and reconsidered by legal counsel for opinion; and 2. the Town's Attorney review the current warrant article in place and the proposed petitioned article for comparison in content, clarity and conflict in anticipation of the January 4, 2011 Public Hearing.

3. FISHEYE PROPERTIES, LLC

10/610 (Fisheye Properties, LLC) Request by applicant to develop a 12 lot single-family subdivision on 46.22 acre site located at Young Road (Map 240/Lot 15) in the Neighborhood Residential (NR) Zoning District. Applicant: Fisheye Properties, LLC; Wayne Stocker; P.O. Box 250; Union, NH 03887.

The applicant, Fisheye Properties, has requested a continuance until the January 4, 2011, meeting of the Planning Board.

Clarifications for Fisheye Properties LLC, on drainage analysis, roadway analysis and site review will be voted on by the Board at Planning Review session on December 16, 2010. Planner Brawdars said the consulting engineer has submitted the authorization to proceed for engineering review.

Impact fees were briefly discussed for off-site improvements and impact fees paid to the town.

Planner Brawdars noted it is required that the Capital Improvement Plan be reviewed and updated annually and asked when the last update was completed. Members of the Board opined that current Selectmen Michael Clark reviewed the CIP prior to his departure from his position on the Planning Board in 2009. An updated CIP is needed for the Land Use office.

A suggestion was made that the agenda have a working checklist appended to it, so that all members can follow the status on projects.

Brawdars indicated that revised administrative application checklists were being created. Discussion ensued proposing case submittals be presented by applicants a month, rather than the current practice of 15 or so days before the Public Hearing date.

Brawdars is to draft a procedural policy for her office. PB discussed procedures and ideas for organization.

4. ZONING ORDINANCE CHANGES – 2011

A. Add campground definitions: Planner Brawders to look at campground definitions and consult with the attorney. She will then email the results to the Planning Board. PB Vice-Chair Edward Lemos made the motion to approve to add variance to present zoning as submitted by Laura Spector, Esq. The motion was seconded by PB Member Alan Kelley. The motion carried unanimously with a vote of five (5) to zero (0).

B. Storage of recreational vehicles beyond the 120 days allowed for use per year: discussed definition and how long vehicles can stay on lot. The question was whether to up the amount of time from 120 days to 180 days, noting that the campground owners would prefer 180 days. PB Member Alan Kelley made the motion to go from 120 days to 180 days. The motion was seconded by PB Vice-Chair Edward Lemos. The motion carried unanimously with a vote of five (5) to zero (0).

C. Change number of days a recreational vehicle can be used per year – Floodplain Management District Overlay – Section 13.8 – 180 days, page 44/120 days use – Article 3 – General Provision – Section 3.3.12), page 8, and Definition – Camper, page 63: need to put recreational vehicle into the table of use; PB Member Alan Kelley made the motion to change to 180 days with the vehicle being fully licensed and having floodplain insurance. The motion was seconded by PB Vice-Chair Edward Lemos. The motion carried unanimously with a vote of five (5) to zero (0).

D. Definition – condominium: Brawders will search for the definition and send to Jae Whitelaw, Esq.

E. Units under a common roof – allow garages as a connection to 2 dwellings, which adds privacy, separation and looks nice: discussed the definition of duplexes and garage connections. Planner Brawders will do research on Monday on the definitions and let the Planning Board know.

F. Change dates for presenting applications and material from the Wednesday before the third Thursday, to the Monday before the third Thursday: Brawders will talk with the attorney for advice on this and bring information back to the PB.

G. Add definitions for different types of child care operations – an example would be educational institution: the language needs to be refined. Brawders said she would like to check with the state to see what their definitions are and the difference between a daycare in the home, which is just childcare, to an educational institution which is a business.

H. Transfer of development rights: Tabled to 2012.

I. Update Tables to match changes: definitions need to be in the Tables. It was generally agreed that the books needed to be updated.

ADJOURNMENT

PB Member Alan Kelley made the motion to adjourn at 10:40. PB Vice-Chair Edward Lemos seconded the motion. The motion carried unanimously with a vote of five (5) to zero (0).

Respectfully Submitted,
Lisa M. Bradbury