



**BARRINGTON PUBLIC HEARING
BARRINGTON ELEMENTARY SCHOOL LIBRARY
570 CALEF HIGHWAY
BARRINGTON, NH**

**TUESDAY, JANUARY 18TH, 2011
MINUTES**

PRESENT: John Huckins, Chair
Jacqueline Kessler, Ex-Officio
Alan A. Kelley
Steve Oles
George Calef
Anthony Gaudiello, Alternate

ABSENT: David Vincent
Edward Lemos, VMD; Vice Chair
Dawn Hatch, Alternate

STAFF: Connie Brawders, Town Planner
AuBriana Morency, Temporary Transcriptionist

CALL TO ORDER

The Public Hearing was called to order at 7:01 P.M. by Chair John Huckins.

ROLL CALL

A formal roll call was conducted confirming members present as stated above.

ACTION ITEMS

Chair John Huckins asked if any of the Board had any questions or concerns regarding the proposed warrant articles. No issues were raised. The Board proposed to expedite the vote on warrant article items one (1) through nine (9).

Pursuant to NH RSA 674:16; 675:3 and 675:7 notice is hereby given of a public hearing to be held by the Town of Barrington Planning Board for the purpose of discussing proposed amendments to the Zoning Ordinance.

1. To **amend** Article 17-Definitions to read *Article 18-Definitions* for the purpose of inserting Article 17-Workforce Housing, adopted at the second session of the official ballot on March 9, 2010.
2. To **amend** Article 18-Appendix to read *Article 19-Appendix* for the purpose of inserting Article 17-Workforce Housing, adopted at the second session of the official ballot on March 9, 2010.
3. To **amend** the following to Article 18-Definitions; *Campground: A campground or camping park means a parcel of land on which 2 or more campsites are occupied or are intended for temporary occupancy for recreational dwelling purposes only, and not for permanent year-round residency.*

For the purpose of adding a new definition for promoting language consistency within the zoning ordinance.

4. To **repeal** the following from Article 18-Definitions; **Day Care:** An occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for 7 to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older.

And **replace** by inserting the following definitions under Article 18-Definitions;

Child Day Care Agency- means any person, corporation, partnership, voluntary association or other organization, either established for profit or otherwise, which regularly receives for child day care one or more children, unrelated to the operator or staff of the agency. The total number of hours in which a child may remain in child day care shall not exceed 13 hours per day, except in emergencies. The types of child day care agencies are defined as follows:

- (a) *"Family day care home" means an occupied residence in which*

child day care is provided for less than 24 hours per day, except in emergencies, for up to 6 children from one or more unrelated families. The 6 children shall include any foster children residing in the home and all children who are related to the caregiver except children who are 10 years of age or older. In addition to the 6 children, up to 3 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays.

(b) "Family group day care home" means an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for 7 to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older. In addition to the 12 children, up to 5 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays.

(c) "Group child day care center" means a child day care agency in which child day care is provided for preschool children and up to 5 school-age children, whether or not the service is known as day nursery, nursery school, kindergarten, cooperative, child development center, day care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name.

(d) "Day care nursery" means a child day care agency in which child day care is provided for any part of a day, for 5 or more children under the age of 3 years.

(e) "Night care agency" means a center or family home in which child day care is provided during the evening and night hours. A child day care agency may be licensed for day care, night care, or both.

(f) "Preschool program" means a child day care agency providing care and a structured program for children 3 years of age and older who are not attending a full day school program. The total amount of hours a child may be enrolled in a preschool program shall not exceed 5 hours per day.

(g) "School-age program" means a child day care agency providing child day care for up to 5 hours per school day, before or after, or before and after, regular school hours, and all day during school holidays and vacations, and which is not licensed under RSA 149, for 6 or more children who are 4 years and 8 months of age or older. The number of children shall include all children present during the period of the program, including those children related to the caregiver.

(h) "Dual licensure" means the issuance of 2 licenses by the department of health and human services to operate both a child day care agency and a family foster care agency, as provided by RSA 170-E:8, II.

For the purpose of promoting language consistency within the zoning ordinance and the State of New Hampshire child care licensing requirements.

5. To **amend** Article 18-Definitions; **Commercial Recreation Facility**: A privately owned and/or operated land use, either indoors or outdoors, where the main purpose is to provide the public with recreation. Examples of such facilities include skating rinks, water slides, gymnasiums, sports fields, miniature golf, driving ranges, swimming pools, race tracks, and stadiums.

By inserting: **Commercial Recreation Facility** : A privately owned and/or operated land use, ***provided for gain or profit***, either indoors or outdoors, where the main purpose is to provide the public with recreation. Examples of such facilities include skating rinks, water slides, gymnasiums, sports fields, miniature golf, driving ranges, swimming pools, race tracks, and stadiums.

For the purpose of promoting language consistency within the zoning ordinance.

6. To **repeal** Article 19-Appendix; **Daycare facilities** and **replace** with ***Child Day Care Agency***.

For the purpose of promoting language consistency within the zoning ordinance.)

7. To **amend** Article 3.3 Supplemental Regulations for Zoning Districts; 3.3.1 Regulations Pertaining to All Districts; 2) Recreational Vehicles – A recreational vehicle, as defined in Article 17, shall not be construed as a dwelling unit under the provisions of this Ordinance. Temporary seasonal occupancy (not to exceed 120 days in any calendar year) of a recreational vehicle shall only be permitted at locations approved by the town and subject to all applicable state regulations. Occupancy of a recreational vehicle by any individual, group, or household, for more than 120 days in any calendar year shall not be permitted in Barrington.

By replacing with: *Article 3.3 Supplemental Regulations for Zoning Districts; 3.3.1 Regulations Pertaining to All Districts; 2) Recreational Vehicles – A recreational vehicle, as defined in **Article 18**, shall not be construed as a dwelling unit under the provisions of this Ordinance. Occupancy of a recreational vehicle by any individual, group, or household, for more than **180** days in any calendar year shall not be permitted in Barrington.*

For the purpose of promoting language consistency within current Zoning Article 13-Floodplain Management District Overly (FDO); 13.8 Requirements for Recreational Vehicles and Manufactured Housing and

consistency with Site Plan Review Regulations Article 6-Recreational Campgrounds and Camping Parks.

8. To **repeal** the following under Article 5-Nonconforming Lots, Structures, and Uses; 5.1 Nonconforming Lots; 5.1.2. Merger of Certain Nonconforming Lots; If two (2) or more unimproved lots of record are contiguous and held in single ownership on or after the effective date of this Ordinance, and if one (1) or more of the lots have been rendered nonconforming, based on area or frontage, by passage of this Ordinance, the lots shall be deemed to be merged into one (1) undivided parcel of land.

For the purpose of conforming to the State of New Hampshire legislative act effective September 18, 2010 which prohibits a city, town, county, or village district from merging lots or parcels except upon application of the owner.

9. To **amend** Article 15-Zoning Administration; 15.2.2 Criteria for Granting Variances; In accordance with state statute, the Zoning Board of Adjustment is authorized to grant variances from the terms of this Ordinance if the request for said variance conforms to the provisions specified in Subsection 15.1.2 Paragraph 3) above. In addition to these provisions the Board shall also be guided by the following specific criteria in determining whether the granting of a variance is appropriate under the terms of this Ordinance. The Zoning Board of Adjustment shall, when considering a request for a variance, make findings of fact that consider the following factors:
 - 1) Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.
 - 2) Granting the variance would be consistent with the spirit of the Ordinance.
 - 3) Granting the variance will not result in diminution of surrounding property values.
 - 4) Granting of the variance would do substantial justice.
 - 5) Granting of the variance would not be contrary to the public interest.

By **inserting** after the above: *(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:*

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

(ii) The proposed use is a reasonable one.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to

special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

For the purpose of conforming to the State of New Hampshire legislative act effective January 1, 2010 granting powers to the Zoning Board of Adjustment.

After review of items one through nine, the Board voted to approve the articles and submit to the Town Warrant 2011 with no changes.

Member Alan Kelley made the motion to approve items one (1) through nine (9) for recommendation and submission to the Town Warrant; seconded by member Steve Oles. The motion carried unanimously with a vote of six (6) to zero (0).

10. To **amend** the zoning ordinance to add a new Wetlands Conservation District submitted by petition.

For clarification of the vote, the Chair explained to the Board that by voting Yes, the Board would be recommending support of the citizens' petitioned warrant article. By casting a No vote, the PB is not in support of the proposed article.

Board member Tony Gaudiello supported Huckins' clarification for the purpose of the vote. Member George Calef questioned the legality of the citizens' petition, as signatures were taken inside the polling place on Voting Day November 2010. Chair Huckins restated previous meeting comments addressing Calef's concerns, reminding all members that acceptance and validation of the petition was beyond the purview of the Planning Board. Any issues of concern were to be addressed to the office of the Town Clerk and Board of Selectmen. Members Kelley, Gaudiello, and Kessler supported the Chair.

Chair John Huckins called for a vote of recommendation by the Planning Board to support the citizens' petition. The motion was made by PB member Alan Kelley to recommend the support of the citizens' petition; seconded by member Steve Olds. The motion carried with five (5) members voting not to support the submitted article, zero (0) in support of the submitted article, and one (1) vote to abstain.

ADJOURNMENT

With no further business to discuss, the special meeting of the Planning Board adjourned at 7:10 p.m.

Ex-officio member Jacqueline Kessler made the motion to adjourn, which was seconded by Board Member Steve Oles. The motion carried with a vote of six (6) to zero (0).

Respectfully Submitted,
AuBriana R. Morency, Temporary Transcriptionist