



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

**THURSDAY, APRIL 28, 2011
MEETING MINUTES**

*Review of minutes to follow Item #10.

**Item 8 moved to follow Item #4.

PRESENT:

John Huckins, Chair
Alan Kelley, Vice-chair
Michael Clark, Ex-officio
Anthony Gaudiello
Edward Lemos, DVM
David Vincent-arrived late
Stephen Jeffery- Alternate

ABSENT:

George Calef
Jacqueline Kessler- Alternate
Steve Oles- Alternate

STAFF:

Constance Brawders, Town Planner

GUESTS:

David Sanford; Littleworth Road; Barrington
Donald Coker; Major Waldron's Sportsmen's Association;
Barrington
Jim Powers; P.O. Box 100843; Bedford, NH 03110
Albert Estes; 240 Long Hill Road; Dover, NH 03820
Anne Melvin; 33 Eastern Avenue; Unit 2; Barrington
John Wallace; Barrington Conservation Commission
Scott Calitri; 125 Longmarsh Road; Durham, NH 03824
Sara Pollock; 367 Packers Falls Road; Durham, NH 03824
Susan Rice, 409 Franklin Piece Highway, Barrington

CALL TO ORDER

Chairman John Huckins called the meeting of the Barrington Planning Board to order at 7:05 p.m.

ROLL CALL

Members were introduced by the Chair confirming members and guests present as stated above.

Planning Board Alternate member S. Jeffery designated by Chair for member Calef.

MINUTES REVIEW AND APPROVAL

*Review of minutes to follow Item #9.

1. Approval of April 14, 2011 Regular Meeting Minutes.

Planning Board Vice-chair A. Kelley moved to table the review and approval of the April 14, 2011 meeting minutes to the end of the meeting. Planning Board member D. Vincent seconded the motion, which carried unanimously with a vote of seven (7) - zero (0).

Following the discussion of Item #9, the Planning Board took the minutes of April 14, 2011 into consideration for approval and acceptance.

Vice-chair A. Kelley brought Item #1 to the attention of the Board the matter of recording an accurate vote. Draft minutes reflect a vote of four (4) in favor to zero (0) against. The vote should state, four (4) in favor – one (1) against.

Vice-chair A. Kelley brought to the attention of the Board an omission under Item #5 and requested that his name be included and credited in the presentation of the Planning Board Rules of Procedure.

Vice-chair A. Kelley brought to the attention of the Board a grammatical error under Item #9 and requested that “bypassed” be corrected to read “surpassed” EPA standards.

Planning Board member T. Gaudiello moved approve recommended minor revisions to the minutes of April 14, 2011. Vice-chair A. Kelley seconded the motion, which carried with a vote of five (5) – zero (0), and two (2) abstain.

Planning Board member T. Gaudiello moved to approve the minutes of the meeting of April 14, 2011. Member D. Vincent seconded the motion, which carried with a vote of five (5) – zero (0) and two (2) abstain.

STAFF COMMUNICATIONS

2. Brief discussion of sign posting violations under Barrington Site Plan Review Regulations, Article 5-Sign Regulations and Barrington Zoning Ordinance Article 3-Permitted Uses 3.1.8 Signage.

As there were several items and guests present to discuss agenda items, Planning Board member T. Gaudiello moved to continue the discussion to May 12, 2011. Vice-chair A. Kelley seconded the motion, which carried unanimously with a vote of seven (7) - zero (0).

3. Update on items of concern from Selectman Chair Keith Pratt on Hearthside Drive road acceptance.

Chairman Huckins opened the floor to Ex-officio member M. Clark to present the Board of Selectmen's concerns, as reflected in the April 20, 2011 letter from BOS Chair Keith Pratt listing twenty-five questions for consideration regarding design and construction deficiencies at the Hearthside Drive subdivision. Ex-officio member Clark explained the need to address the current standard of practice for road acceptance and the desire to solidify the criteria for road acceptance as being mutually acceptable by both Town boards. The Board of Selectmen and Planning Board shall schedule a joint meeting before any further consideration is made in approving a private road as a public road.

Chair Huckins invited developer J. Powers (Northern Acres; P.O. Box 10084; Bedford, NH 03110) to come before the PB to apprise the Board for a third occasion on the status of his project, the LAPRADE Subdivision (AKA-Hearthside) and reply to BOS Chair Pratt's questions. In November of 2010 the Planning Board had voted to offer their opinion to the Board of Selectmen recommending approval of Hearthside Drive as being in compliance with all subdivision requirements set forth, contingent upon final written approval submitted to the Board of Selectmen for recommendation by Road Agent Peter Cook. The BOS is preparing to consider Hearthside Drive as a public road, as the winter season has passed.

Discussion ensued in regard to previous and current subdivision regulations between Board members and the applicant, who is not the original applicant /developer. Mr. Powers took ownership in 2005. The applicant is of the opinion that he is in full compliance with regulations in place when subdivision approval was granted and recorded in September 2007, as well as having addressed the punch list items which surfaced in July of 2010 during the final site walk of the subdivision in preparation for the developer's road acceptance petition to the Town. To address the issues raised by the Board of Selectmen at this point, Vice-chair Kelley suggested further consideration should be deferred to the Road Agent, Peter Cook, and Consulting Engineer of record, at that time, The Louis Berger Group (1001 Elm St # 203; Manchester, NH).

Ex-officio member Clark reminded the PB that no intent to offend any member of any board is meant to be taken; the BOS are concerned with the liability that may be assumed with acceptance of any road if proper testing methods and plans built to specification have not been observed, noting that changes in the field (change orders) would be taken under advisement, as having been approved by all parties.

PB member Lemos and Vice-chair Kelley suggested that the Town Planner forward the list of newly presented issues of concern be sent to the Road Agent and Louis Berger Group, as these questions are now beyond the purview of the Planning Board. The Town Planner informed the PB she had forwarded the questions to those advisors prior to the evening's meeting and awaiting response; the developer will arrange to follow up with the Road Agent and Louis Berger Group for compliance.

ACTION ITEMS

4. **03/501 (The Falls on the Isinglass River Subdivision)** Request by applicant for an opinion for road acceptance for an approved Subdivision Plan prepared for Mills Falls Realty, LLC; 240 Long Hill Road; Dover, NH 03820 dated October 15, 2002, revised through 09/04/2003, prepared by Trittech Engineering Corporation; 755 Central Avenue; Dover, NH 03820, recorded at the Strafford County Registry of Deeds as Plan 73-43 as site located at Tolend Road (Map 12/Lot 97D).

Developer Al Estes (Mills Falls Realty, LLC; 240 Long Hill Road; Dover, NH 03820) addressed the Planning Board noting the list of outstanding items in the consulting engineer of record's (Dubois & King, Inc., 18 Constitution Drive; Suite 8; Bedford, NH 03110) review of As-built plans and final site walk conducted on April 18, 2011 with the developer, consulting engineer, Road Agent, Peter Cook, and Town Planner, in anticipation of the developer's petition for road acceptance.

All conditions of subdivision approval have been met according to the Notice of Decision. The final punch list is being addressed. Trittech Engineering Corporation (755 Central Avenue; Dover, NH 03820) will present revised As-built plans, respond to the comments made by Dubois & King, and documentation will be provided for the Land Use case file folder and Planning Board's consideration.

Barrington Conservation Commission Chair John Wallace expressed his concern in regard to a violation of the Conservation Easement stipulations, whereby a homeowner has unintentionally cleared an area of vegetation. The Board is of the opinion the issue has no bearing on the road acceptance and this violation may be a civil matter, rather than a Planning Board or Board of Selectmen issue to be resolved.

Ex-officio member M. Clark again pointed out concerns with the current standard of practice for road acceptance and the desire to solidify the criteria for road acceptance as being mutually acceptable by both Town boards.

Planning Board member E. Lemos moved to recommend acceptance to the Select Board of The Falls on the Isinglass River Subdivision, case 03/501, for road acceptance pending positive response by Dubois & King, noting that all outstanding issues as described in their letter dated April 19, 2011 have been satisfied. Vice-chair A. Kelley seconded the motion, which carried unanimously seven (7) – zero (0).

REVIEW OF PLANS

5. **SR11/389 (Mix Maker)** Request by applicant for approval for a change of use from Warehouse Operations to Light Manufacturing Facilities on a 3.01 acre site located at 246 Calef Highway (Map 223/Lot 7) in the Regional Commercial (RC) & Stratified Drift Aquifer Overlay Zoning Districts. Applicant: Lynch Specialty Foods, Inc., Robert S. Lynch; 66 Baer Road; Rollinsford, NH 03869.

The application for Item # 5 is invalid as the owner did not sign the application form, nor was a letter of authorization submitted, for consideration by the Planning Board for case review.

Item #8 heard following Item #5.

6. **LL11/234 & 11/613 (Lot Line Adjustment and Subdivision for Todd Calitri & Jason Pohopek)** Request by applicants to adjust the line between Lot 20 (28 acre site) & Lot 20.1 (2.4 acre site), adding 0.99 acres to Lot 20.1 increasing its area to 3.39 acres and to subdivide a 2.59 acre back lot from Lot 20 creating one new lot and leaving 14.2 acres remaining with Lot 20, located at 267 & 269 Parker Mountain Road (Map 216/Lot 20 & 20.1) in the General Residential (GR), Highway Commercial Overlay (HCO) & Stratified Drift Overlay (SDA) Zoning Districts. Applicant: Pohopek Land Surveyors & Septic System Design, LLC, Jason Pohopek; 42 Flagg Road; Rochester, NH 03867

Chairman Huckins invited applicant/owner Jason Pohopek to come to the table for technical review of plans by the Planning Board. Planner Brawders had provided technical review comments on the proposed plan for the consideration of the Board in their packets. Chair Huckins shared legal opinion by the Town's Attorney, Jae Whitelaw (Mitchell Municipal Group; 25 Beacon Street East; Laconia, NH 03246), regarding the development of this back lot subdivision, which concurred with the January 6, 2011 opinion regarding this application offered by her colleague, Laura Spector. The Chair read the following April 18, 2011 email excerpt into the record:

"I agree with Laura's interpretation of the subdivision regulation: an existing back lot may not be subdivided so as to create two back lots unless the new lot complies with the current ordinance and regulations. This interpretation is consistent with Section 4.1(3) of the zoning ordinance, which permits two back lots only for new residential subdivisions. Since the PB regulations cannot change the requirements and limitations set forth in the zoning ordinance, we are required to interpret the regulations as not doing so whenever reasonably possible."

The Chair consulted further by telephone with Atty. Whitelaw to share the standard that has been consistently implemented for plan approval by the Planning Board, whereby two back lots may be subdivided meeting road frontage requirements by creating pork chop shaped lots.

During the call, the Chair reported Atty. Whitelaw recognized the ambiguity in the Zoning Ordinance and recommended that the Planning Board consider amending the definitions to include Back lot and remain consistent in their interpretation of the Zoning Ordinance. Atty. Whitelaw stands by her opinion, and further opined that an applicant may appeal to the Zoning Board of Adjustment for approval if the Planning Board should deny an application as not having met the requirements for zoning.

Planning Board member Gaudiello asked that the Chair clarify the attorney's opinion for the Planning Board's benefit with further discussion ensuing among members regarding lot line abandonment and adjustment, as a new subdivision of this parcel must meet the current area requirements. Specifically, Town of Barrington Zoning Ordinance, Article 4-Dimensional Requirements under 4.1.3 Back lots, and Subdivision Regulations- 14.2.4 Back lots Permitted, were taken under advisement.

It was determined that two back lots had been previously created by an earlier subdivision plan. The applicant may consider requesting a waiver of Subdivision Regulation 14.2.4.6. The Planning Board must be prepared to make the determination for denial of this application at the public hearing on May 5, 2011 for the purposes of appeal to the ZBA.

Technical review of LL11/234 & 11/613 continued with the Planning Board having made the following Technical Review comments: 1. A separate subdivision plan must be prepared to meet the standards of acceptance for recording at the Strafford County Registry of Deeds (topos and test pits are no longer acceptable as shown on plans for recording); 2. Revise Note #2 to reflect the Zoning District as General Residential (GR) with overlay districts named as Highway Commercial District Overlay (HCO) and Stratified Drift Aquifer Overlay (SDA); 3. Amend the dimensional requirements to reflect the Zoning District standards; 4. Add dimensional requirements to reflect back lot subdivision standards; 5. NH State Subdivision approval will be required under RSA 485-A: 29 and permit number shown on plans for New Lot 20.4; 6. New boundary lines shall be memorialized and shown on plans if greater than 300 feet distance apart; 7. Show all well radii on plans; 8. Add the wetlands survey stamp; and 9. Revise Note #12 to accurately reflect Town of Barrington Erosion Control Standards (see Application Checklist Section II. General Plan Information; Item 11.).

Regarding the waiver requests: 1. Add a fourth waiver request for Subdivision Regulations under 14.2.4-Backlots Permitted paragraph 6.

7. **SR11/391 (Minor Site Plan and Change of Use - Alice Cook)** Request by applicant for approval for a change of use from Retail Uses to Service for Autos and Trucks and Sale of Automobiles, Parts and Supplies on a 3.99 acre site located at 3 Brittany Lane (Map 220/Lot 33) in the Regional Commercial (RC) and Stratified Drift Aquifer Overlay (SDA) Zoning Districts. Applicant: Berry Surveying & Engineering, Daniel O'Lone; 335 Second Crown Point Road; Barrington, NH 03825

The Planning Board discussed the location of the proposed application for automotive and truck service, sales, parts and supplies as being in the Stratified Drift Aquifer Overlay (SDA) Zoning District and therefore subject to the stipulations set forth under Article 12-Groundwater Protection District Overlay (GPO). Therefore, the Planning Board offered the following comments:

1. Best Management Practices (BMP) must be noted on the approved plan for reference; 2. Material Safety Data Sheets (MSDS) shall be noted on Plan and maintained by the applicant for record keeping purposes. 3. See Zoning Article 12-Groundwater Protection District Overlay (GPO); 4. Although the plan reflects the location of parking spaces, the Planning Board has required that the applicant show the car sales display area on revised plans.

The Planning Board next considered Item #9.

NON ACTION ITEMS

Preliminary Conceptual Review

**Item 8 moved to follow Item #4.

8. **11/612 (Harbor Street Limited Partnership- Village Place)** Request by applicant for a Preliminary Conceptual Review to present a proposal for a conservation subdivision on a 133.7 acre site located off Franklin Pierce Highway (a/k/a Route 9 (Map 238/Lots 9.1 & 14 (Lot 14 continues onto Map 235). Applicant; Harbor Street Limited Partnership, Joseph Falzone; 123 Water Street; Unit 4SE; Exeter, NH 03833.

Planning Board member T. Gaudiello recused himself.

Vice-chair A. Kelley moved to take Item #8 out of order to be heard between Items #5 and 6. Seconded by PB member D. Vincent. The motion carried six (6) – 0 (zero).

At the applicant's request and Planning Board's agreement, the applicant has sought additional guidance from the Planning Board before making application for Design Review by presenting a third illustrative, conceptual, plan for general discussion. The applicant has yet to meet with the Barrington Conservation Commission for consultation. Atty. Malcolm R. McNeill, Jr. (180 Locust Street; Dover, NH 03820) represented the applicant as agent and provided plans of the 117- acre site featuring a yield plan showing a 50 - lot conventional subdivision plan as requested by the Planning Board at an earlier hearing, and a revised 65 - lot conservation subdivision plan. Although the Village District zone does not stipulate minimum open space requirements, each illustrative plan did account for open space.

The donation of a parcel for construction of a new Town library has not been represented in this evening's proposal. However, Atty. McNeill did convey that there are two parcels on site with suitable conditions for constructing a library.

The yield plan for the 50 - lot single family conventional subdivision reflects 7,000 +/- linear feet of roadway with three points for access, two off Route 9 and a third via the Deer Ridge neighborhood. Each 80,000 SF lot will have 75-foot frontage. Open space area totals 17.3 acres.

The revised, 65 - single family 20,000 SF lot conservation subdivision offers 46-acres of open space with perimeter buffer. The surface road reflects 5,350 +/- linear feet with two access points, one via the Deer Ridge neighborhood and a second off Route 9 near the Barrington Middle School. There is an access way reserved for the abutting Rice farm parcel and an access way reserved from the cul-de-sac for the 46-acre designated open space. Additionally, the applicant's agent will converse with Conservation Commission Chair John Wallace regarding integration of the contiguous Deer Ridge open space.

Atty. McNeill concluded his formal presentation stating he hoped the plans compared this evening brought the developer closer to meeting the goal of creating a desirable subdivision plan.

The Chair opened the floor for public comment.

Barrington Conservation Commission Chair John Wallace spoke expressing his pleasure with integration of the Deer Ridge open space. Wallace did convey the need for a wild life analysis. Developer J. Falzone responded by assuring the Board that Jamie Long of GZA (GZA Corporate Headquarters; One Edgewater Drive, Norwood, MA 02062) has completed the site survey and wetlands delineation, noting findings that the previously mapped Prime Wetland edge has been reduced in size. The wild life analysis will be presented for the Barrington Conservation Commission's consideration.

Ex-officio member M. Clark stated he was pleased to see the additional egress onto Route 9; however, Clark reminded the applicant that a proposal to utilize a crash gate for emergency access to the Deer Ridge neighborhood has not been received favorably by Barrington Public Safety. Board member D. Vincent concurred with the opinion of Public Safety.

The discussion turned to open space requirements. PB member D. Vincent cited Zoning Article 6.2.2 Common Open Space. Because of the proximity of the proposed subdivision to the General Residential Zoning District, member Vincent opined that the PB should look at preserving as close to 50% open space as possible and, therefore, the available area for a civic building, which includes libraries, could not be satisfied under current zoning.

Further discussion ensued regarding open space, civic space, and mathematical calculations for the donation an area of land suitable to site a library. Vice-chair Kelley cited his preference for the revised conservation subdivision plan and agreed that under current zoning, the Board could not consider a donation of a library parcel as satisfying the stipulations of the Zoning ordinance.

The Chair recognized abutter Susan Rice who presented her concerns regarding open space calculations, which include the perimeter buffer under Zoning Ordinance 6.2.6 Perimeter Buffer, definition of Buffer under Article 18 – Definitions, and the affect of land use between the abutting Drew and Rice parcels. Rice directed the Board to review RSA 432- Soil Conservation and Farmland Preservation; 432: 33 Immunity from Suit. Rice strongly urged the Board to require that the developer add Notes to the subdivision plan regarding the provisions of RSA 432 (See Attachment 1).

Developer J. Falzone asked the Board to kindly clarify the Boards' position for public access of open space. The Board was generally amenable to public access for open space, with a caveat by member Vincent expressing potential need for an amended NHDOT Driveway Permit off Route 9, which should be investigated by the applicant.

Abutter Anne Melvin, speaking as an abutter, not as a member of the Town of Barrington Conservation Commission Member or Library Trustee, spoke in support of public access for public enjoyment; however, she had concerns that her well water supply may be impacted by development in proximity to her condominium complex water supply. Planner Brawders asked if NH issued a certificate of assured water supply and was advised that NH does not require such a certificate; water quality stipulations are in place, however. The question of

well draw down could not be answered by applicant's legal counsel or Planning Board members.

Atty. McNeill at this time commented on Ms. Rice's issues regarding the proposed conservation subdivision perimeter buffer. In Barrington, a buffer area is 100 feet in width and may not contain structures or house lots within the 100 foot width, nor may the buffer area be used for any discernable purposes. Atty. McNeill elaborated by stating minus the perimeter buffer, such as reflected in the conventional subdivision plan, an individual lot owner could build up to Rice's lot line without mitigation of a buffer zone.

Ms. Rice responded by voicing her concern for the burden imposed by passing traffic along her lot line which follows the adjacent perimeter buffer, as she pursues her interest of preserving her right to farm her land.

Chair Huckins thanked Atty. McNeill and Ms. Rice for their input.

Barrington Conservation Commission Chair John Wallace asked if this proposal would not be conducive to applying Transfer of Development Rights. Chair Huckins responded that, at this time, TDR is not part of the Town of Barrington Zoning Ordinance and could not be considered as a condition for subdivision approval.

The Town Planner left to address a family emergency at 8:35 p.m.

The remarks and consultation concluded with the following recommendations by the Planning Board: 1. The Board asked that the applicant provide a site plan illustrating proposed dwelling units as sited on each lot to exemplify the feasibility of meeting the density requirements; 2. The applicant is to schedule a meeting with the Barrington Conservation Commission before presenting Design plans for consideration of the BCC's recommendations for the proposed development; 3. The applicant is to provide the Natural Resource Inventory/Wildlife study to the Barrington Conservation Commission for their consideration; 4. Public Open space and availability of parking spaces should be addressed; 5. The condition of Benajah Drive should be considered by the applicant's traffic engineer as part of the traffic study; 6. The applicant is to discuss with Fire Chief Walker recommendations and stipulations; 7. The applicant is to discuss with Police Chief Conway recommendations and stipulations; 7. The Vernal Pool Study should be provided for by the applicant.

S. Rice had an additional question regarding any NHDOT requirements for entrance on Route 9. Chair Huckins replied that, as the applicant was at the preliminary conceptual application stage, that study had not been completed, but would be required as part of the Design submittal.

The applicant and Board discussed continuation of the case to a date and time specific.

Planning Board member E. Lemos moved to continue 11/612 (Harbor Street Limited Partnership- Village Place) to the June 2, 2011 meeting of the Planning Board for Design Review. Seconded by Vice-chair A. Kelley. The motion carried unanimously six (6) – (0).

PB Member Gaudiello returned to the Board.

Planning Board member E. Lemos moved to return to the order of the agenda at Item #6. Seconded by Vice-chair A. Kelley. The motion carried seven (7) – zero (0).

9. **11/613 (Conceptual Subdivision for John & Elizabeth McMaster)** Request by applicant to present a Preliminary Conceptual Review plan for a three lot subdivision on a 62 +/- acre site located at 157 Merry Hill Road (a/k/a Wood Road) (Map 257, 256 & 123/Lot 3) in the General Residential (GR) Zoning District. Applicant: Berry Surveying & Engineering, Daniel O'Lone; 335 Second Crown Point Road, Barrington, NH 03825.
Item #9 followed Item #7.

The Board briefly reviewed the conceptual plan and will discuss the request with the applicant at the public hearing on May 5, 2011.

Item #1 was considered for discussion.

10. **10/610 (Fisheye Properties, LLC)** Continued review of Vice-chair Kelley's list of questions and concerns regarding Fisheye Properties.

Planning Board member D. Vincent recused himself.

Subdivision Regulations under Article 11.2- Decisions of the Board were discussed between Board members without arriving at a conclusion.

Planning Board member D. Vincent returned to the Board.

Discussion moved to implementation of Town of Barrington Planning Board Rules of Procedure the Board has asked that the Planner forward the draft of the Barrington Planning Board Rules of Procedure to Atty. Whitelaw for her consideration and opinion.

Planning Board member E. Lemos moved to submit the draft of the Barrington Planning Board Rules of Procedure to Atty. Jae Whitelaw, Town of Barrington Legal Counsel. Seconded by D. Vincent. The motion carried seven (7) – zero (0).

ADJOURNMENT

With no further business, Vice-chair A. Kelley made the motion to adjourn at 10:50 p.m. Member Gaudiello seconded the motion. The motion carried unanimously, seven (7) in favor to zero (0) against.

Respectfully submitted,
Constance M. Brawders
Town Planner

Lindsey and Susan Rice
409 Franklin Pierce Highway
Barrington, NH 03825

April 28, 2011
File # 11/612

Applicant: Joseph Falzone, GP
Harbor Street Limited Partnership

Subject: Proposed Conservation Subdivision-Calef/Drew Land
Preliminary Conceptual Review Plan

Based upon the minutes/conversation of the last meeting, April 7, 2011, two areas of concern have arisen and I would like to note for the record excerpts from the Barrington Zoning Ordinance: Underlined for emphasis:

With regard to the use within the perimeter buffer:

Conservation Subdivision Section 6.2.6 Perimeter Buffer

All Conservation Subdivisions must have a perimeter buffer setback of one hundred (100) feet around the entire tract that may not contain any structures or individual house lots. The buffer should provide a visual screen from exterior roads by either retaining existing woodlands or by planting additional landscaping that is considered sufficient to provide such screening.

Definition of Buffer from Barrington Zoning Ordinance Buffer

An area of land separating distinct zoning districts or land uses that acts to soften or mitigate the effects of one land use on the other. The term greenbelt refers to a specific type of buffer area.

The Falzone proposal has an intended use of residential homes by implementing the conservation subdivision parameters and should be required to soften or mitigate the effect of one land use on the other (Rice property).

The impact to the Rice property includes the following:

- The Rice property, which is the single largest abutter to this project with a total impact of over 20 new house lots along two of its property lines.
- The proposed development impacts the back boundary line of the Calef/Drew/Rice Property.
- The proposed development impacts the eastern boundary line of the Drew/Rice Property.
- The Rice property is a mixed use property combining residential, commercial and agricultural uses. The Rice property has a non-residential site plan review on file with the SCRD for its commercial uses.
- The Rice property is the largest property located within the Village District and retains full development rights, which if the Falzone proposal is approved, will have an effect of one land use vs. another land use.

The Rices respectfully request that the intended use of a buffer zone, is just that a buffer zone to be left in its natural state with additional plantings to mitigate the more intense use, both visually and physically and that no walking trails be established in the 100', thus softening the use.

ATTACHMENT #1

Further, the Rice property is an active agricultural operation, Nick's Meadow Farm, and as such wishes to make note of the following RSA once again to protect itself:

Agricultural Operations:

RSA 432:33 Immunity from Suit-No agricultural operation shall be found a public or private nuisance as a result of changed conditions in or around the locality of the agricultural operation, if such agricultural operation has been in operation for one year or more and if it was not a nuisance at the time it began operation. This section shall not apply when any aspect of the agricultural operation is determined to be injurious to public health or safety under RSA 147:1 or RSA 147:2.

Since 409 Franklin Pierce Highway is the major abutter to this project (said project abuts on two complete boundaries) that said applicant be required to acknowledge on the recorded plan and in each new deed that abuts said land the following: The owner/abutter of each newly formed lot acknowledges that an ongoing agricultural enterprise resides at 409 Franklin Pierce Highway and has been existence for more than one year and it has not been deemed a nuisance since the time it began operation and it has not been determined to be injurious to public health or safety under RSA 147:1 or RSA 147:2. Further, it is acknowledged that operations include, but are not limited to, noise, smell and sight and that none of these conditions have been found injurious and will continue to proceed on such property. It is also acknowledged that the said property resides in the Village District and retains all rights and privileges granted to it under the terms of the Zoning Ordinance.

With regard to pedestrian access and potential for sidewalks:

2.2.3 Village District (VD)

The Village District is intended to promote mixed use development at higher densities in order to provide a centralized location for regular community interaction as well as convenient opportunities for the purchase of goods and services by town residents. The regulations are intended to allow opportunities for creating apartments above commercial establishments and multifamily senior housing developments that would be in close proximity to municipal and school facilities and provide a base of consumer support for small-scale commercial establishments in the district. The site design and landscaping standards applied to development in this district should reflect the guidelines recommended in the 2004 Master Plan as well as other land use regulations adopted by the town.

Development in this district should promote an environment that facilitates pedestrian access both within the VD district as well as into adjoining zoning districts.

5) To permit active and passive recreational use of open space by residents of the proposed development and/or by the general public.

Open space appears to be the appropriate place for the implementation of active and passive recreational use in the open space-not the buffer zone. Clearly the proposed open space as noted on the plan can easily accomplish this goal and perhaps with some additional tweaking of the lots, additional trails can be established for easier access to the proposed open space and to leave the buffer zone intact.