

Approved August 18, 2011 - GMJ



**BARRINGTON PLANNING BOARD MEETING
EARLY CHILDHOOD LEARNING CENTER
77 RAMSDALL LANE
BARRINGTON, NH**

**THURSDAY AUGUST 4, 2011
7:00 p.m.**

MEETING MINUTES

*Review of minutes to follow Item #7
** Item # 6 moved to follow Item # 7

PRESENT: John Huckins, Chair
Alan Kelley, Vice-Chair
Michael Clark, Ex-officio
George Calef
Anthony Gaudiello
David Vincent
Edward Lemos, VMD
Stephen Jeffery-Alternate
Jacqueline Kessler – Alternate
Steve Oles – Alternate

ABSENT: None

STAFF Constance Brawders, Town Planner
Gregory Jones, Transcriptionist
Attorney Jae Whitelaw (Mitchell Municipal Group, P.A.; 25 Beacon Street East; Laconia, NH 03246)

GUESTS: Mike Sievert; MJS Engineering, P.C; 5 Railroad Street; Newmarket;
NH, 03857
Chris Berry; Berry Surveying and Engineering; 335 Crown Point Road;
Barrington

Joe Lowry; P.E; The Louis Berger Group 100 Commercial Street;
Manchester, NH 03101
Dave Smith; Graystone Builders; 38 Beechwood Drive; Strafford NH
03884

David Oliver; 83 Merry Hill Road; Barrington
Richard Proulx JR; 134 Pierce Road; Barrington Industrial Park
K. Weston; Durham NH; Barrington Industrial Park
John McMaster; 157 Merry Hill; Barrington
Elizabeth McMaster; 157 Merry Hill; Barrington
Dorothy Johnson; 81 Rachel Lane; Barrington
Shane Fillion; 111 Highland Ridge; Barrington
Janet Fillion; 111 Highland Ridge; Barrington
Albert Alix; Fremont NH, 03044
Chris Alix; Newmarket, NH 03857
Brian Lenzi; 155 Young Road; Barrington

NOTE: THESE ARE SUMMARY ACTION MINUTES ONLY. A COMPLETE COPY OF THE MEETING AUDIO IS AVAILABLE THROUGH THE LAND USE DEPARTMENT.

ROLL CALL

Chair John Huckins called the August 4, 2011 meeting of the Barrington Planning Board to order at 7:00pm.

MINUTES REVIEW AND APPROVAL

1. Approval of July 21, 2011 Regular Meeting Minutes.

A. Gaudiello motioned to table the Minutes Review and Approval and move directly to Action Items. A. Kelley seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

As the current time was 9:35 p.m, and the Minutes of July 21, 2011 require amendments, A. Gaudiello motioned to table the Minutes Review and Approval of the July 21, 2011 Regular Meeting Minutes until the Board's next meeting. E. Lemos seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

STAFF COMMUNICATIONS

AND

OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

ACTION ITEMS

2. **10/610 (Fisheye Properties LLC)** a public hearing will be held to determine if the conditions of approval have been met for a 12 lot single-family subdivision on a 4.6 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.

Board Member D. Vincent recused himself.

Planning Board Alternate S. Jeffery was designated by the Chair for D. Vincent.

Attorney James Schulte (James H. Schulte Law Office, 660 Central Avenue, Dover, NH 03820-3491) representing the applicant, stated that he is before the Board to determine if the projects conditions of approval have been adequately met in order to certify final approval. Attorney Schulte recounted that at the Boards meeting on April 7, 2011 the project was granted conditional final approval upon the future adherence to two conditions. The first condition was that the Town's third party engineering consultant (Dubois & King, 18 Constitution Drive, Bedford NH 03110) be given the opportunity to review and approve the proposed plan for design and installation of work associated with the cutting back of a slope on young road which was required in order to provide surety that the new topography would provide adequate site distance and allow for future roadway construction to Town codes and standards. Attorney Schulte reminded the Board that the Town's engineering consultant has reviewed and approved this plan and the applicant is prepared to offer a slope easement with a value of \$30,000.00 to the Town in order to allow for future improvements. The seconded condition being that the Town's legal counsel Attorney Jae Whitelaw (Mitchell Municipal Group, P.A.; 25 Beacon Street East; Laconia, NH 03246) be given an opportunity to review and approve the proposed forms for the slope easement deeds for the slope easement which the Town may or may not accept. Attorney Schulte continued that at the April 7, 2011 meeting, the Board was in agreement that if those two conditions were satisfied, this application would be approved without further hearing. He informed the Board that upon completion of this requirement, it was assumed that final approval was granted and so his applicant proceeded with installing a cistern, removing the existing dwelling structure and completing the excavation work associated with the roadway slope. He asked that the Board vote to confirm that the two conditions have, in fact, been satisfied and confirm that the project has final approval by empowering the Chair to sign the final plan set.

Attorney Jae Whitelaw (Mitchell Municipal Group, P.A.; 25 Beacon Street East; Laconia, NH 03246) stated that the Boards issue with signing the final plan-set is related to the municipality's process for accepting new easements. She stated that because the Board of Selectmen possesses sole authority to accept or deny any municipal easement, there is an implied Planning Board condition that the easement be formally accepted by the Board of Selectmen before final plans are signed by the Chair. Attorney Schulte stated that had it been clear that this would also be a condition of final approval, the applicant would not have spent as much money on the work associated with the roadway cut, removal of the dwelling structure and installation of cistern and would have simply paid the \$500.00 per lot off-site improvement fee in order to move the project along. Attorney Schulte stated that the Town acceptance of the easement was not part of the April 7, 2011 conditional approval and whether or not the Town accepts the easement should have no impact on the project. Chair J Huckins stated that there appears to be some confusion amongst the Board as to whether or not the actual granting of the easement was part of the conditional approval. Chair J. Huckins opined that should the Board of Selectmen choose not to accept the easement, the \$500.00 per lot off-site improvement fee should be imposed. A. Gaudiello noted for record that a significant portion of the funds needed for the completion of site work associated with this slope was a safety requirement of the Subdivision Regulations which the project would have needed to comply with regardless of the current issue.

G. Calef motioned to approve the tabled motion from the Draft Planning Board minutes of July 7, 2011 which states that following the advice of the Town Attorney, the conditions of approval imposed on the Fisheye Subdivison have been met and

shall be granted final approval. A. Gaudiello seconded the motion which passed with a vote of five (5) in favor, to two (2) against.

A. Guadiello motioned to amend the prior motion to state that following the advice of the Town Attorney, the conditions of approval imposed on the Fisheye Subdivision have been met. The motion was seconded by G. Calef and passed with a vote of five (6) in favor, to one (1) against.

The Board discussed the appropriateness of voting on final Subdivision approval in lieu of the Board of Selectmen acceptance of the slope easement in question. A. Gaudiello opined that it would be appropriate for the Board to wait until the Board of Selectmen to act on the acceptance of the slope easement. Chair J. Huckins stated that if the Board makes a motion which satisfies the off-site improvement requirements, it would allow the plans to be signed and the applicant to move on as another meeting would not be required.

A. Gaudiello moved that a vote to establish the conditional outcomes on the acceptance of this easement by the Board of Selectmen would be an untimely decision for the Board to make. M. Clark seconded the motion which failed as no vote was taken.

Attorney Schulte stated that in the interest of moving the project along, the applicant would be willing to offer either the slope easement or pay the \$500.00 per lot off-site improvement fee should the Board of Selectmen choose not to accept the easement. He continued that in either case the Town's off-site improvement subdivision requirements would have been met and allows the project to obtain final approval and move on. Attorney Jae Whitelaw concurred with Attorney Schulte.

A. Gaudiello withdrew his prior motion to declare a decision on the matter untimely.

A. Gaudiello motioned to empower the Chair to sign the approved final plan-set, with a condition subsequent, that should the Board of Selectmen choose not to accept the slope easement, the required \$500.00 per lot off-site improvement fee will be imposed per Section 11.4 of the Subdivision Regulations and be included in the Notice of Decision. G. Calef seconded the motion which passed with a vote of five (5) in favor, one against (1), and one (1) abstained.

3. **10/528 (Gerrior Lane Trust)** Request by applicant to amend a Site Plan to relocate and construct Detention Pond #2, amend the Grading Plan, and review of surety for Phase 2 of the development located at Gerrior Drive from Route 4 to St. Mathews Drive (Map 268 Lots 1.6 & 1.7) in the General Residential (GR) Zoning District. Applicant: Peter Daigle, Esq. 1550 Falmouth Road, Suite 10; Centerville, Ma 02632.

D. Vincent remained off the Board.

Michael Sievert (MJS Engineering, P.C; 5 Railroad Street; Newmarket; NH 03857) explained to the Board that work for Phase #1 of this project has been completed with the exception of constructing the new detention pond #2 and installation of a top coat of pavement for Barrington and Nottingham. He is before the Board to seek approval for this remaining work within phase #1 of the project only. He stated that the project was before the Board originally to relocate detention pond #2 within phase #1 of the project. The re-location of proposed detention pond #2 was

approved by the Planning Board on October 7th, 2010 with conditions. The conditions were that the applicant must supply an easement for the land associated with the construction of detention pond #2 and that the bonds be reviewed by the Town for the construction of detention pond #2 as well as the final 1 inch of top coat pavement on the roadway. He continued that because of the flooding and sedimentation concerns raised by downstream abutters, the applicant agreed to investigate the flow rates and a possible redesign of detention pond #1 with regard to alternate outlet conditions and confer with the Town engineering consultant on their findings. M. Sievert stated that his analysis of the storage capacity and flow rates relative to detention pond #1 have proven that the detention pond will work as designed and will not increase downstream flow rates. He stated that with abutters concerns in mind he investigated the idea of a partial plug of one or more of the outlet structures in the detention pond. While he did not recommend using the plug, he assured the Board that the detention pond would work as designed with or without the plugged outlets. He expressed concern with the water levels in the detention pond under the plugged conditions as the water would be closer to the roadway and therefore be a potential issue for the Town. He stated that an erosion issue related to detention pond #1 has been stabilized and a Department of Environmental Services Administrative Order which was issued has been released. Joseph Lowry (The Louis Berger Group 100 Commercial Street; Manchester, NH 03101), the Town's third party consultant for this project, directed the Board to his July 21, 2011 letter to the Planning Board. Within the letter J. Lowry explained that his office had reviewed the letter report from MJS Engineering which compared the peak discharges from detention pond #1 for different storm events and different outlet conditions. This report included analysis of the outlet condition from the pond as originally designed, as it was constructed, and as it would if the outlet structures were modified. J. Lowry assured the Board of the validity of Mr. Sievert's calculations and the ability of the pond to function properly, as well as the recommendation to leave the culverts open in order to protect the roadway.

Chair J. Huckins agreed that because detention pond #1 has been expanded and can now contain a larger volume of water, the situation has been corrected and the pond now has a superior design.

G. Calef referenced an August 2, 2011 e-mail from Steve and Ellen Conklin expressing concern over the projects ability to comply with Barrington Subdivision Regulation S10.3 and protect downstream abutters from flooding. The letter took the position that the recommendation made by The Louis Berger Group and MJS Engineering to leave the culverts open would allow the current flows rates in question to remain. Chair J. Huckins stated that the letter provides no evidence to support the positions taken. A. Kelley stated that the Board can only act on the advice of the Town's engineering consultant. M. Sievert stated that the project has all permits in place and will put up bonds for the remaining work in phase #1 once the Planning Board approves the work. He stated that permits will be needed for phase #2. Chair J. Huckins stated that the owner would need to work with the Board of Selectmen with regard to bonding associated with phase #2. Chair J. Huckins stated that the Town's consulting engineer would have to review and sign off on the bonding estimates for the remaining work in Phase #1 in order for the Board to render a decision. J. Lowry stated that he concurred with the bonding estimate currently in place by MJS Engineering for phase #1.

E. Lemos moved to approve the continuation of Phase # 1 of the development with the conditions that bonding be secured and easements are recorded before the start of work. A. Gaudiello seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

Chair J. Huckins opened up the floor for public comment. There was no public comment.

4. **11/615 (John & Elizabeth McMaster)** Request by applicant to present a proposal for a two lot subdivision on a 62+/- acre site located at 157 Merry Hill Road (a/k/a Wood Road) (Map 257, 256, & 123/Lot3) located in the General Residential (GR) Zoning District. Applicant: Berry Surveying & Engineering, Chris Berry; 335 Second Crown Point Road; Barrington, NH 03825.

Chris Berry (Berry Surveying and Engineering; 335 Crown Point Road; Barrington) addressed the Board regarding his applicant's request to subdivide a 62+/- property located at 157 Merry Hill road. C. Berry explained the project and directed the Board to his August 4, 2011 letter which addresses the project's adherence to the Boards concerns with the application and outstanding Subdivison checklist items. He stated that the applicant is seeking waivers to the required depiction of USGS topographic datum as this would be financially burdensome to the applicant and as the project is minor in nature it should not require large scale engineering reports. He stated that the applicant is requesting waiver to the requirement of showing monumentation every 300 feet on all boundary lines as this has not typically been the Planning Board practice in the past and would also be financially burdensome on the applicant. Finally, he stated that the applicant is requesting a waiver to Items #28 and #31 of the Subdivision Checklist which requires depicting topography and existing features and two foot contours of the entire lot. Chair J. Huckins suggested the Board vote on each waiver separately in order to move on with further discussion of the project.

A. Kelley moved to waive the subdivision requirement of delineation of all on-site wetlands for the entire lot. A Gaudiello seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

E. Lemos motioned to waive the subdivision requirement of depicting two foot contours and existing features on the plan for the entire parcel. G. Calef seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

Chair J. Huckins suggested that the Board review its procedure and distance requirements for monumentation of new lot lines. He stated this requirement is contained within the Site Plan regulations and should be addressed within the Subdivison Regulations for clarity. Chair J. Huckins stated, and the Board agreed, that a waiver is not required for monumentation of the entire lot as this is not a requirement of the Subdivison Regulations. C. Berry stated that the applicant would be willing to complete monumentation on the new lot only.

A. Gaudiello motioned to approve the waiver of the Subdivision requirement of depicting USGS topographic datum on the plan for the entire parcel. G. Calef seconded the motion which passed unanimously with a vote of seven (7) to zero (0) in favor.

A. Gaudiello motioned to accept the application as complete. A. Kelley seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

Chair J. Huckins opened up the floor for public comment. There was no public comment.

C. Berry requested that the required owner signature and Soils and Wetland Scientist stamps to be included on the plan and the required generation of a PDF version of the plan to be provided to the Land Use department be made a condition of approval and referenced in the motion. Chair J. Huckins stated that the outstanding items listed in the Planner's review letter dated July 25, 2011 have been met with the exception of plan signatures and PDF of the plan.

A. Kelley motioned to grant final approval of the application upon satisfaction of conditions #10-12 of the subdivision Application Checklist as the project is minor, and to empower the Chair to sign the approved plans once these conditions have been met. The conditions being that the owner signs the approved plan, the registered Soils or Wetland Scientist signs/stamps the plan and a PDF version of the plan is provided to the landuse department. M. Clark seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

5. **11/616 (Jeffery & Sarah Flause)** Request by applicant to present a proposal for a two lot subdivision on an 18 acre site at 327 Second Crown Point Road (Map 204 & 205, Lot 2) located in the General Residential (GR) Zoning District. Applicant: Berry Surveying & Engineering, Chris Berry; 335 Second Crown Point Road; Barrington, NH 03825.

Applicant withdrew the application.

E. Lemos motioned to accept the application withdrawal. A. Gaudiello seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

6. **Town of Barrington Planning Board Rules of Procedure**

A public hearing will be held for the adoption of Planning Board Rules of Procedure pursuant to New Hampshire Revised Statutes Annotated RSA 676:1. A full text of the proposed Rules addressing the internal procedures of the Planning Board are available for between the hours of 8:00 a.m. and 3:00 p.m. Monday through Thursday in the Land Use Office located at 137 Ramsdell Lane in the Town of Barrington.

A. Gaudiello stated that currently, the Rules of Procedure appear to be complete enough to move forward but that small changes to the Rules will be needed in the future.

A. Gaudiello motioned to move agenda Item # 7 in front of agenda Item # 6. E. Lemos seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

E. Lemos motioned to adopt the planners Draft Rules of Procedure document dated July 25, 2011. S. Jeffery seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

A. Kelley stated that in order to make identified changes to the regulations, a better way of completing these tasks should be given attention. He suggested forming an amendment committee where the Vice-Chair is an automatic member, with two other Board Members, in order to work these issues out in a timely manner. Chair J. Huckins stated that in order to form such a committee, formal minutes must be taken and all procedural rules of municipal boards would be required. Town Planner Brawdors informed the Board that an intern from the University of New Hampshire has been acquired, at no expense to the Town, to complete the needed regulation updates identified by the Board. She stated that it would be prudent for Board members to meet with the intern to discuss the changes needed in order to create a clear and working document. A discussion related to the logistics of the completion of identified amendments ensued.

M. Clark motioned to establish an amendment committee. A. Gaudiello seconded the motioned which passed unanimously with a vote of seven (7), to zero (0) in favor.

Chair J. Huckins suggested including the amendment committee into the Board Rules of Procedure. Planner Brawders reminded the Board of the meeting posting requirements.

NON-ACTION ITEMS

Preliminary Conceptual Review

7. **SR11/388 (Eco Park Industrial Park)** Request by applicant for a Preliminary Conceptual Review to present a proposal for an industrial park on a 138+/- acre site located at Calef Hwy (Map 263/Lot13.1) Applicant : Richard Proulx, Jr; 16 Fogg Drive; Durham, NH 03824

Richard Proulx addressed the Board with regard to a preliminary conceptual review of a proposed Eco Industrial Park on a 138+/- acres property located at Calef Highway. R. Proulx informed the Board that he has met with the Town Conservation Commission and Board of Selectmen in order to gather input and suggestions with regard to the proposed Industrial Park. He explained that modifications were made to the plan based on the recommendations of both Boards and that he is before the Planning Board to gather any further recommendations before a formal Site Plan is submitted. The Board suggested the applicant contact the Fire Department with regard to public safety concerns related to the length of the last leg of Roadway depicted on the conceptual plan. Chair J. Huckins stated that a few of the wetland crossings are in close proximity to on-site wetlands. He stated that in order to perform work within the wetland buffers, a special permit is needed per Article 9 "*Wetlands Protection District Overlay*" Section 9.6 "*Special Permit for Construction in a Wetland Buffer*". R. Proulx stated that the existing delineated wetland boundaries were only sketched in by a previous wetland scientist and so their boundaries may change. Chair J. Huckins suggested the applicant determine where and if Prime Wetlands exist on the site aside from regular jurisdictional wetlands. R. Proulx stated that there are grading issues at the site will which need to be addressed in order to meet the Town's 7% grading requirements. S. Jeffery asked the applicant to investigate the possibility of following existing contour lines more closely so as to avoid potentially un-needed excavation. R. Proulx inquired if the applicant should come submit the project in phases or as the entire project. Chair J. Huckins stated that typically, projects such as this are submitted to the Board in phases and advised the applicant to seek approval of both entranceways to the project from the State DOT.

A. Kelley motioned to return to Item # 6. A Gaudiello seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

ADJOURNMENT

A. Kelley motioned to adjourn the August 4, 2011 meeting of the Barrington Planning Board at 9:45pm. A. Gaudiello seconded the motion which passed unanimously with a vote of seven (7), to zero (0) in favor.

Respectfully submitted,

Gregory M. Jones
Transcriptionist