

Approved October 13, 2011 - GMJ



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

**THURSDAY SEPTEMBER 22, 2011
7:00 p.m.**

MEETING MINUTES

*Items #4-5 to follow Item #6

PRESENT: John Huckins, Chair
Alan Kelley, Vice-Chair
Michael Clark, Ex-officio
George Calef
Anthony Gaudiello
Stephen Jeffery-Alternate

ABSENT: Jacqueline Kessler – Alternate
Steve Oles – Alternate
Edward Lemos, VMD
David Vincent

STAFF Constance Brawders, Town Planner
Gregory Jones, Transcriptionist
Dan Howard, Planning Intern

GUESTS: Jason Pohopek; 269 Parker Mountain Rd; Barrington
Marie Harris; Lois Lane; Barrington
Jim Farnham;

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 September 22, 2011 meeting of the Barrington Planning Board to order at 7:00pm.

Chair J. Huckins delegated alternate member Stephen Jeffery as the sixth Planning Board member.

MINUTES REVIEW AND APPROVAL

1. Approval of September 8, 2011 Regular Meeting Minutes.

G. Calef motioned to bring the tabled approval of the Regular Meeting Minutes (tabled on 9/15/11) of September 8, 2011 forward. A. Gaudiello seconded the motion which passed unanimously with a vote of six (6), to zero (0), in favor.

G. Calef motioned to approve the Regular Meeting Minutes of September 8, 2011 as amended. A. Gaudiello seconded the motion which passed with a vote of five (5), to one (1) abstention, to zero (0), in favor.

2. Approval of September 15, 2011 Regular Meeting Minutes

Vice-Chair A. Kelley motioned to table the Review and Approval of the September 15, 2011 Regular Meeting Minutes. G. Calef seconded the motion which passed unanimously with a vote of six (6), to zero (0), in favor.

CASES FOR CONTINUANCE

There were no cases for continuance.

ACTION ITEMS

3. Capital Improvement Project

A. Gaudiello and G. Calef recused from discussion.

Marie Harris, representing the Barrington Library Trustees, approached the Board relative to an land use idea the Trustees have for a portion of open space within the 65 lot conservation subdivision located on Route 9 (11/62, Harbor Street Limited Partnership – Village place) which is currently within the Planning Board approval process. She explained that this project, and others which may be similar, could be included within the Library's submission for the Capital Improvement Project. M. Harris explained that the Library trustees had approached the developer and suggested that, as the property is within the town Village District, a community center be incorporated as part of the project scope in the form of an environmentally friendly Library/Community Center which will benefit the residents of Barrington. The Library/Community Center would be built on a portion of open space which the developer gifted to the Town as part of the conservation subdivision.

Chair J. Huckins explained the justification behind the project's open space areas, density and other requirements relative to Town Subdivision regulations and Zoning Ordinance. He opined that utilizing that open space for the proposed Library/Community center goes against the spirit of the regulations for which this project was charged to comply with.

M. Harris suggested the Board formulate a way to update the regulations so the Town may begin taking advantage of the remaining lands suitable for municipal uses while they remain available.

Town Planner Brawders suggested that possibilities may exist for the Board to consider the proposed Library/Community Center idea a "recreational" use thereby deeming it permissible under the Zoning Ordinance. She opined that the Trustee's may want to petition an amendment to the Zoning Ordinance at the November 14, 2011 Public Hearing. Vice-Chair A. Kelley suggested that the Trustee's begin working with the Planning Board if a petition is to be sought. Chair J. Huckins opined that it would be difficult to deem a library as a recreational use and stay within the confines of the Master Plan and spirit of Town regulations.

M. Harris inquired as to whether the Town regulations would be met, if the developer removes a portion of the project's open space through further subdivision to make a parcel available for the Library/Community Center. Chair J. Huckins agreed that this is possible as this project was not subject to a designated open space requirement at the time of submittal. He continued that as long as the developer met the density requirements set for in the Zoning Ordinance the possibility exists for this plan alteration. M. Harris inquired if the Board would accept this plan alteration should it come to pass. Chair J. Huckins informed M. Harris that the Board of Selectmen are charged with accepting the donation and the Planning Board approves the plan. He stated that as long as the developer meets the density, open space and buffer requirements there is no apparent reason why the project would not be approvable. However, the matter must be taken under formal consideration.

A. Gaudiello and G. Calef returned to discussion.

Town planner Brawders informed the Board that a decision must be made as to whether the Board will focus on the Capital Improvement Program (CIP) or study Impact Fees per a request by the Town Administrator. Chair J. Huckins opined that the Board should move forward with Impact Fees as Ex-officio M. Clark reviewed the CIP and is currently waiting for budgetary data from the Board of Selectmen to bring forward at the Planning Board's next meeting.

M. Clark stated that after review of the CIP, there were no budgetary changes needed as there were no additional expenditures from the previous year. Therefore, he opined that there is no reason to update the CIP budgetary data for the upcoming year and expects the expenditures to again be consistent with the previous. A. Gaudiello opined that there is no reason to spend time on the CIP if nothing has changed. Chair J. Huckins agreed but stated that the department head CIP objectives may need to be updated. Planner Brawders urged the Board to utilize an "in-house" CIP review/update so as to bring current budgetary data from all municipal departments before the Board, show the public that a CIP is in place and avoid placing a warrant article. The Board agreed to an "in-house" review of the CIP fiscal data to avoid further CIP review expenditures.

A. Gaudiello moved to continuing the Item and wait for further correspondence from the Planner. Vice-Chair A. Kelley seconded the motion which passed unanimously with a vote of six (6), to zero (0) in favor.

Planner Brawders inquired as to how the Board would like to proceed with Impact Fees. Chair J. Huckins stated that the only Impact Fee the Board is prepared to bring forward to the Selectmen is the town-wide fee for roadways.

REVIEW OF PLANS

A. Gaudiello moved to review Item #6 Preliminary Conceptual Review in front of Items # 4 and #5 as the applicant is present. G. Calef seconded the motion which passed unanimously with a vote of six (6), to zero (0), in favor.

4. **SR11/394 (Kenneth & Linda Grant)** Request by applicants to propose a small general construction/contractor business at their residence located on a 2.93 acre site at 372 Parker Mountain Road (Map 214 Lot 6) in the General Residential (GR) and the Highway Commercial Overlay (HCO) Zoning Districts. Applicant: Geometris Blue Hill, LLC, Randy Orvis; PO Box 277; Farmington, NH 03835-0277.

After review of the Planners materials relative to the above mentioned project, the Board determined that the Geometres Blue Hills, LLC memorandum titles "Outstanding Items Response", which was submitted and stamped on September 22, 2011, was submitted untimely and has not given the Planner and Board an adequate amount of time for review. Chair J. Huckins stated that as a matter a precedent, application materials should only be accepted in a timely manner. A. Gaudiello stated that the Board should move forward with review of the Planners current Draft Technical Review and other available materials in order to guide the applicant appropriately at the next public hearing of the Board. After review of the Planners Technical Review, the Board agreed that the following items are needed from the applicant.

- A conditional Use Permit application for approval of a Contractor's Storage and Equipment Yard (see Zoning Ordinance Article 19-Tale of Uses and ZO Article 3-Permitted Uses; Section 3.4)
- Individualized responses to Performance Standards #1-6 of Article 1-Groundwater Protection District Overlay
- As the project is within the Stratified Drift Aquifer (SDA) District Overlay, Individualized responses to Performance Standards within this district under Article 12.4.2
- The Plan should show the amount of impervious surface (Lot is 2.93 acres. How much is impervious. If 15% or > than 2,500sf, whichever is greater, a stormwater management plan must be in place. (see ZO 12.4.2).
- Please dimension pavement width on site.
- Please refer to ZO Article 12-Groundwater Protection District Overlay, Section 12.5-Maintenance Requirements for recording at Strafford County Registry of Deeds of the required performance standards.
- Municipal access/driveway permitting information associated with the entrance on sloper road.
- Along Route 126, a gravel area is located inside the greenbelt buffer zone (see ZO section 8.5). Please be prepared to seek a variance from the ZBA, if the Planning Board requires you to do so.

- NHDES Wetlands Bureau Complain file number 2008-00408-Kenneth Grant-Sloper Road Barrington- resolution source citation for file.
- Overall dimensions and set-back distance of proposed pole barn – Clarification as to whether the pole barn is included as part of this application. Elevation drawings will be need if included as part of the application.
- Demarcation of existing well-radius
- Demarcation of existing septic location in relation to well radius
- Clarification of the plan's legend relative to demarcation of the green-belt buffer

5. **SR11/395 (Club Kidz-Cheryl Hill)** Request by applicant for a minor site plan approval for a daycare/educational institution serving ages from 6 weeks to 12 years, and request for sign permit approval, on a 2.93 acre site located at 8 Eastern Avenue in the Town Center (TC) and Stratified Drift Aquifer Overlay zoning districts. Applicant Cheryl Hill; Hill's Home Preschool; 22 James Henry Drive; Barrington, NH 03825.

Chair J. Huckins recused from discussion.

Town Planner Brawdors presented the Board with a Draft Technical Review of the submitted materials for the above mentioned application for site plan approval and sign permit approval for Club Kids at Restoration Church. After review of the Draft Technical Review, the Board agreed that the following Items are needed from the applicant.

- Restoration Church Owner of record signature on Project Application form
- Letter of Authorization from owner of record
- Narrative describing your project. This for is available on the Land Use Website under Tools for Planning and Development
- To the title box verify and correct the name of owner of record and correct the address to reflect E-911 updated information
- Identify Route 125 as Calef HWY on the plan
- Show dimension of the cross walk on the plan
- Because the case submittal is located on State Route 125, the Planning Board and New Hampshire Department of Transportation may require a Traffic Study. Please visit NHDOT website for additional information and provide documentation that NHDOT is satisfied with the project proposal and satisfies their criteria.
- At note #4, verify and correct owner of record, if applicable
- At Note #7, revise the reference to state Section 4.2.4, rather than 4.2.2.
- Add NHDES Subdivision Approval Number to Note #11.
- Add and date of septic construction to note #12.
- Verify the survey dimensions along Route 125 with the subdivision plan for Dover Federal Saving and Loan, drawn by Frederick > Drew and Associates dated January 1979 and recorded at Strafford Registry of Deeds (Plan 22A-162) and SCRD Deed Book 3342/page3397.
- Dimension Right-of-Way ingress & egress.
- Provide fifteen (15) 11'' X 17'' plans for the review team and Planning Board
- Owner signature on final plans.
- PDF version on CD of the plan for the Land Use case file folder.
- Revised Sign Permit Application – The existing signage is under waiver.
- Color, graphic image with dimensions for the proposed sign

6. (Jim Farnham) Request by applicant for a Preliminary Conceptual Review to discuss questions for construction for a new home at Mendum's Landing near wetlands buffer.

Jason Pohopek approached the Board on behalf of the applicant. J. Pohopek stated that the applicant will be pursuing a future building permit for a 3-4 bedroom residential structure on a 2.22 acre parcel deemed "Lot 25" on the Plan entitled " Subdivision Plan of the Frost Lots in Barrington and Nottingham, NH", prepared by Bruce L. Pohopek, dated December 20, 1986, revised through June 2, 1987, recorded at the Strafford County Registry of Deeds as plan #31-128, Barrington, Strafford County, New Hampshire described in Deed recorded at Book 1352 Page: 196. Pohopek stated that he is seeking input from the Board before starting the project as to whether or not the Town's current wetland buffer under Article 9.5.1 of the Zoning Ordinance would apply to his applicant's project in order to better understand the potential building envelope.

Chair J. Huckins opined that because the lot was in existence prior to March of 1997, it may be considered grandfathered and the current wetland buffer requirement may not be imposed. He informed J. Pohopek that Code Enforcement is the department to seek guidance from and if an issue arises relative to this buffer requirement, the Zoning Board of Adjustment would be the appropriate governing body to address the issue with.

A. Gaudiello motioned to return to the regular order with the review of Item #4. Vice-Chair A. Kelley seconded the motion which passed unanimously with a vote of six (6), to zero (0) in favor.

NON ACTION ITEMS

A. COMMUNICATIONS RECEIVED

Chair J. Huckins returned to discussion.

No Communications received.

B. REPORTS OF OFFICERS OR OTHER COMMITTEES

No reports at this time.

C. REPORT FROM PLANNER

1. Planner Brawders directed the Board to the Town of Barrington Conditional Use Permit Application as well as the Barrington Planning Board's Sign Permit Application for review. She informed the Board that an email was circulated relative to a Low Impact Development seminar Friday September 30, 2011 at the Hugh Gregg Coastal Conservation Center at the Great Bay Discovery Center and urged the members to attend if possible.
2. Planner Brawders directed members to the Local Government Center's 2012 Important Dates for Local Officials calendar and asked that they review it for timing with regard to submission of petitions for Zoning Ordinance Warrant Articles & Public hearing dates.

3. Planner Brawdres reminded the Board that a vote must be taken to release the Mill's Falls Surety funds so they may be returned to the applicant. The Mills Falls roadway was accepted by the Board of Selectmen.

A. Gaudiello motioned to return the Mill's Falls Surety Letter of Credit in the amount of \$35,000.00. The motion was seconded by G. Calef and passed unanimously with a vote of seven (7), to zero (0) in favor.

4. Planner Brawdres informed the Board that on October 13 and 27 a conflict exists at the Early Childhood Learning Center. The Board agreed that these two Planning Board meetings are needed and an alternative location should be determined. Chair J. Huckins asked that the Planner locate an alternative location for these meetings.

UNFINISHED BUSINESS

7. Town of Barrington Planning Board Text-Amendments and revisions to Subdivision and Site Review Regulations are to be presented for consideration.

Planner Brawdres directed the Board to the Interns Text Amendments and revisions documents for the Subdivision and Site Review Regulations. She informed the Board that the further amendments were added to the Site and Subdivision Regulations and attention was given to the Zoning Ordinance also. Chair J. Huckins urged the Board to forward any additional known amendments to the Land Use Department for inclusion.

OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

A. Gaudiello submitted three documents for consideration by the Board (**see attachments #1, #2, and #3**) The Documents are entitled "Amendment Process", "Cost Saving 2" and "Mission and Values". These documents have been attached to these minutes and are available for public review at the Land Use Department.

SETTING OF DATE, TIME AND PLACE OF NEXT MEETING AND ADJOURNMENT

A. Gaudiello motioned to schedule the Board's next meeting for September 29, 2011. Ex-officio M. Clark seconded the motion which passed unanimously with a vote of six (6), to zero (0) in favor.

Vice-Chair A. Kelley motioned to adjourn the meeting at 10:00pm. A. Gaudiello seconded the motion which passed unanimously with a vote of six (6), to zero (0) in favor.

Respectfully submitted,

Gregory M. Jones

Transcriptionist

Attachment #1

Amendment Process

Prefatory remarks:

1) See Reference RSA 675:6. SR Article 10 page 85 (says amendments same as SubD – but can't find dedicated or specific amendment provision in the SubD except by reference in Article 1: Authority. (674:36 → 675:6 and as further referenced.)

2) As I understand it from earlier discussions at the board meetings the purpose of the editing/amendment process is to assure that each regulation and each element of locally enacted law we apply conforms to the following:

- A) Meets the requirement that guided its construction;
- B) Produces consistent and predicable result when applied;
- C) Is unambiguous and clear in its expression;
- D) Is consistent within the regulatory set of which it is a part;
- E) Is in harmony with other relevant regulations and law.

3) I see the amending process more akin to the judicial processes than to the legislative process. Both produce changes in the application of rule but the judicial is more or less ongoing and practical while the legislative is more episodic and abstract.

Body of presentation:

I'd like to review and confirm the decision taken by the board on editing the regulations. As a time economy, I'd like to first review the collective memory of the board before determining if a review of the recorded minutes is required to provide a clear starting point for the suggestions herein.

I have previously stated in my view the process of review and amendment for SubD and SR regulation and for the Zoning Ordinance is a compensatory and iterative process. That is, it differs from a one time edit of a manuscript in that it is a continuous process; a feedback loop in which a regulation is applied, a deviation from the expected or intended purpose is discovered, and the construction and subsequent application of a correcting or perfecting amendment is undertaken.

Ideally, the construction and application of the correcting or perfecting amendment would be made at each instance of deviation or noted imperfection. However, there are process elements and considerations that make this impossible in all instances. In our case, for example, Zoning is an Ordinance put in place and made effective by the legislative body of the town. The legislative body which controls that ordinance meets only once a year. Thus while that part of the cycle which is "application and discovery" is continuous, the operationally adaptive response is limited by the frequency of the town meetings. (I'm not sure if the provision of RSA 675:4-a --emergency town meeting-- would apply to Barrington, but even if it did, I would think such an action would be reserved for only the most extreme circumstances.)

The timing conditions for the amendment process of the SR and SubD regulations are distinct from the amending process for the Zoning Ordinance. This is recognized in the RSA in that, within the limits for public notification and the review and publication requirements set by the RSA, it places the controlling conditions and processes in the hands of the Planning Board. This distinction makes the amending process for SubD and SR regulations ideally suited for continuous correction and improvement.

However, though the ideal application of an iterative process assures currency in the regulations, it presents a practical problem. That is, it could result in uneconomic editing and publishing consequences. Many operation manuals, regulatory updates and such like address this issue by scheduling a complete revision and re-publication of material at intervals defined by the accumulated changes not by time. In the interim periods, they publish errata pages to indicate any change and the date of the change/edit so that the full history of the amending process is maintained in those sheets.

Iterative and incremental processes are extremely desirable when the ultimate desired result is too costly to achieve otherwise (costly in terms of time or financial resources) and/or where the project is complicated and the risk of a redo of the project is unacceptable.

I believe this was fully discussed and that a vote was taken to adopt a continuous method of amendment for SubD and SR regulations, while retaining the annualized schedule for amendments to the Zoning Ordinance.

In consideration of the above and previously discussed alternatives, I submit, and would make a confirming motion if another is necessary, to adopt and move forward with the above described amendment process for SR and SubD Regs.

The foregoing has as its object a specific and limited topic. The principle which informs this specific is that it is highly unproductive to revisit decisions made unless new material, i.e. material not already considered, is advanced which justifies the time and effort of such reconsideration.

Attachment #2

MISSION and VALUES

[Note: I took part in a town wide effort to develop guiding precepts recently and perhaps this (as is or with such edits as the board may wish to make) would be a useful contribution to the that town wide effort.]

The vision of the Planning Board has its fullest statement in the Master Plan adopted by the voters.

Barrington Planning Board A Statement of Purpose & Values

The Barrington Planning Board has a dual purpose. The Board is charged with fostering the harmonious, safe, secure, and sustainable future development of our community and the preservation and protection of the community's resource legacy and character. In that dual purpose, we often must balance competing values between and among individuals, groups and interests. Accordingly, we feel it appropriate to review and publish the Planning Board's Purpose and Values Statement from time to time.

WE VALUE for ourselves and those we serve:

Fidelity to our purpose and the laws and the regulations that uphold that purpose;

Equitable, fair and objective treatment in all matters;

Integrity, community involvement and awareness;

Diversity of view in the context of respectful and honest interactions;

Participation in our deliberations by citizens and appointees at the fullest possible level consistent with law.

Fidelity: We believe we are bound to make every effort to know and understand the laws and regulations under which we operate and to act in accord with our best understanding of these laws and regulations and uphold their underlying purposes.

Equal, fair, and objective treatment: We believe that all persons and matters that may come before us are to be accorded all the protections of, and the common sense application of, the law and regulations under which we are formed and operate.

Integrity: We believe in the value of honesty, public and mutual trust, and are mindful always that all actions and decisions taken by the Planning Board are taken under the terms of a declared oath.

Involvement and awareness regarding our community, the Town of Barrington, NH: We believe the best outcomes are available only when deliberations are conducted with the broadest possible understanding of their effects.

Respectful and honest communication: We believe in courteous interaction in group discussion in the form of active listening and honest dialogue between and among ourselves and with the community.

Participation: We believe in the fullest possible lawful engagement of:

- a) Each appointed member of the board;
- b) The representatives of the town's lawful authorities.
- c) Each person with standing to be heard by the board:

By this submission I suggest that to the extent a purpose and values statement is a policy statement regarding land use and planning, the planning board as such should put forward its view of a guiding values statement

Attachment #3

Cost Saving

We all have a notion now and again on possible economies and efficiencies in our meetings and processes. Rather than intrude upon the time (an increasingly scarcer commodity) and operation of the office I propose that each board member simply submit written suggestions on cost savings/containment and efficiencies at board meetings where they can be memorialized as attachments to the minutes and taken up as appropriate.

As to my suggestions of the moment:

First, eliminate the requirement that each waiver be submitted on separate sheet. I know each waiver needs a separate vote but why a separate sheet? There is a repeat of applicant information on each waiver form. This seems to me to be an unnecessary burden (small though it is) on the applicant. A single sheet conveying the basic applicant information once which provides space to list the requested waivers and the justification for each waiver would achieve the same end it seems to me. (If continuation sheets are needed the applicant can supply them.)

This is a very small matter but one that has at least a marginal reduction of time and material resources. Since it is also an item that many applicants seem to wrestle with it has the virtue of being slightly more user friendly. If there is no authoritative source for the requirement of a single sheet per waiver or if there is no appreciable gain to the administrative process, then it seems worth the slight change required.

Second, (An echo of a suggestion made before by various others:) I suggest that we fully implement a policy requiring any legal questions raised by or on behalf of the planning board be reviewed by the planning board as to its phrasing and scope. This has been discussed and as I recall agreed to as a policy by the board but it has not been fully implemented. The steps previously suggested in this policy are:

- 1) The Board invest the necessary time to determine if:
 - a. the question requires legal consultation
 - b. frame and state the question completely and clearly.
- 2) If possible, the question should then be addressed first to the Local Government Center (an action suggested by the Town Administrator as well as members of the board).
- 3) Subsequently, should questions not be resolved, the planning board most actively decide to incur the cost of private counsel the board. Step 1 should then be reviewed before the question is submitted and the cost incurred. In this way the content and context of the question is clear and follow up inquiries and expense will be kept to a minimum.

(A side note one test of whether the cost of consultation is justified it the so called reasonable man test. That is, would a reasonable person incur the expense.. Or more briefly stated - if it was your money would you do it.)

Third, that we explore the policy suggestion made by the board member that timely notice and up to the moment information be accorded on any matter coming before the board. This needs exploration to evolve a system that allows for proper consideration and discharge of our duties of timely action under the law.

Fourth, that we continue to refine the amount of material we include in the written minutes and formally adopt an electronic form of permanent file. In such a system the written (abbreviated minutes) would serve as the brief on the actions directed and an index for the electronic files. (This may entail some costs in that off site backup procedures might be a necessary precaution to an electronic system, then again, if the current backup precautions are deemed adequate perhaps not. At any rate there are some inexpensive commercial systems that operate in the background and automate the process.)

Fifth, that we explore an option that, in exceptional circumstances and/or where otherwise warranted, the option of making an abbreviation of the customary processes of action which meets the "... next public meeting or within 30 days" requirement. (DV presented this possibility at a recent meeting and in the rare occasions where it would apply it seems at first viewing to have the potential to be a time and energy saver.)