



**MEETING MINUTES**  
**BARRINGTON PLANNING BOARD MEETING**  
**Early Childhood Learning Center**  
**77 Ramsdell Lane, Barrington, NH**  
**Tuesday March 5, 2013**  
**6:30 p.m.**

**ROLL CALL**

**Members Present**

John Huckins, Chair  
Alan Kelley, Vice-Chair  
Anthony Gaudiello  
George Calef  
Jackie Kessler arrived at 6:34pm

**Alternate Members Present**

Mike Clark, Ex Officio  
Stephen Jeffery

**Town Planner**

Marcia Gasses

**Members Absent**

Dawn Hatch, Ex-officio  
Steven Oles

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

J. Huckins brought the meeting into session at 6:30pm

**ACTION ITEMS**

1. **SR12/410 (Gas Station and Convenience Store)** Request by applicant to construct a 5,000 s.f. convenience store and gas station on a 1.84 acre site located at 491 Calef Highway (Map 238, Lot 4) in the Town Center (TC) and Stratified Drift Overlay (SDA) Zoning Districts.  
Applicant: The Three Socios, LLC; 321 D Lafayette Road, Hampton, NH 03842

G. Calef recused himself.

*J. Kessler made a motion and T. Gaudiello seconded to continue this item at the request of the applicant to May 7 2013. The motion carried unanimously.*

2. **250-79-RC-12-SR Associated Buyers (Steppingstone Farm Partnership)** Request by applicant for a minor site review to add one 7250 s.f. freezer on a 4.35 acre site located at 54 Commerce Way (Map 250, Lot 79) in the Regional Commercial (RC) Zoning District. By: Chris Berry; Berry Surveying & Engineering.

G. Calef returned to the table.

*A. Kelley motioned and J. Kessler seconded to continue this item to April 2, 2013 at the applicant's request. This motion carried unanimously.*

3. **210-57-GR-12-SR Daniel Hussey (Trinity Conservation)-Gravel Excavation Operation** Request by applicant to propose a Gravel Excavation Operation with access through Map 210, Lot 44 on a 100 acre site located on Green Hill Road (Map 210, Lot 57) in the General Residential (GR) Zoning District. By: Jeff Kevan; TF Moran, Inc.

*J. Kessler motioned and G. Calef seconded to continue this item to April 2, 2013 at the applicant's request. This motion carried unanimously.*

#### **Approval of Minutes**

*A. Kelley motioned and T. Gaudiello seconded to move the approval of these minutes to the end of the session. The motion carried*

4. Vote for a request for an extension for the conditional approval Case # 12/619 for The Route 4 Oaks Subdivision submitted by Jason Pohopek, Pohopek Land Surveying & Septic System Design, LLC.

J. Huckins asked how much longer he needed to meet the conditions.

Jason Pohopek explained that he would only need about three more months. He then went on to explain how he is working with the wetlands bureau and DOT and how his wetlands permit, driveway permit and subdivision permit which were all submitted and pending approval.

M. Gasses suggested that they extend the conditional approval to 6 months because historically the DOT takes longer.

*A. Kelley made a motion J. Kessler seconded to extend the condition of approval time to 9/11/2013 at the applicant's request. The motion carried unanimously.*

5. **270-71-RC-12-SR (The Yellow Dog's Barn)** Request by applicant to construct a 936 s.f. building to be utilized as an overnight kennel and will include a one-bedroom apartment on the second floor with associated parking and a Section 9.6 Application for a special permit for construction in wetland buffer located on a 1.16 acre site located at 136 Old Concord Turnpike (270, Lot 71) in the Regional Commercial Zoning District. By: Barry Gier, Jones & Beach Engineers, Inc.; Po Box 219, Stratham, NH 03885

Barry Gier first explained the building being constructed and the use. He went on to say that since last time we met we attended the conservation commission meeting regarding the special use permit. They also responded to all the Dubois and King suggestions. They met with the abutter to address screening issue as well. This will be constructing a 40 foot row of arborvitae plants along the area of where the dog fencing will be. There will be about 13 or 14 because they will be spaced 3 feet apart along the 40 foot row they are about 4-5 feet in height.

M. Gasses stated that the application will have to be a conditional approval based on the Dubois and King reviewing the changes he made based on their suggestions. They would have to sign off on the drainage.

J. Huckins asked what issues they had to address.

Barry Gier explained that they had to indicate the outlet elevation on the plans. Originally they did not have a test pit for the infiltration system. We added a note on the plans saying prior to construction they perform a test pit for the infiltration pit. We used the information from the septic system test pits in order to design the infiltration trench. They are very similar so we used the same ground water height. Once we do the test pit we will have to report back to the engineer and make any adjustments. They also had some small concerns regarding gutter capacity because we will be running our gutters into the infiltration so we did some calculations to address this.

J. Huckins stated that the first thing we need to address is the 9.6 with the impact on the buffer.

Barry Gier said that we previously had an impact on the wetland with the septic system but they had removed this which removed 300 square feet of impact. We still have 250 square feet of impact for the addition to the parking lot and walkway and the temporary impact of 646 square feet of temporary impact from construction.

J. Huckins asked for any questions from the board regarding the 9.6.

*T. Gaudiello made a motion and J. Kessler seconded to approve the 9.6 special permits. Motion carried unanimously.*

J. Huckins explained that we accepted the application and the 9.6 special permit. The only other thing we need to think about is the other little details regarding drainage.

Barry Gier said that they had made the changes but Dubois and King have not had a chance to review them yet.

J. Huckins stated that if the board gives them the conditional approval based upon satisfactory completion of them and if they do not meet satisfactory issues then they would have to come back before the board.

M. Gasses asked the board to note that because this was in site regulations they would have to have a bond she did not feel in this case it was necessary for the site improvements being made based on the scope of the work and size of the project.

*T. Gaudiello motioned and G. Calef seconded that the conditional approval be accepted based on the conditions that have been outlined by the planner in the staff recommendations.*

*A. Kelley asked if these items are added to the plans then isn't the plan supposed to be considered complete at the time of the conditional approval.*

*M. Gasses explained that the plans that are signed off on are the plans that they put the corrections on.*

*A. Kelley said that the plans are not complete as we see them today.*

*J. Huckins said that we are not giving them an approval that this is a conditional approval.*

*M. Gasses said that the final approval is when J. Huckins signs it off as complete.*

*J. Huckins opened for public comment*

*Darcey Scott: stated that she met with the applicant and everything is fine.*

*J. Huckins closed the public comment*

*T. Gaudiello motioned and G. Calef Seconded to give a conditional approval with all of these conditions. The motion carried to all except A. Kelley who abstained.*

*T. Gaudiello made a motion and J. Kessler seconded that once all conditions have been met that J. Huckins has the authority to sign off on the plan as complete. Motion carried to all except A. Kelley abstained.*

- 6. [201-3-GR-13-SR \(North Country Independent Living\)](#) Request by applicant for Site review for a 20 KW Generator at 9 Strafford Road (Tax Map 201 Lot 3) in the General Residential District. By: David Allain. Original site approval (SR97-139 April 28, 1997)**

*Erin Kerry explained the proposal of putting in a 20 KW generator on our site to provide back up for electricity in case of a power outage.*

*G. Calef motioned and J. Kessler seconded to accept application as complete. This motion carried unanimously.*

*J. Huckins opened for public comments*

*J. Huckins closed for public comment*

*J. Kessler motioned and T. Gaudiello seconded for approval. This motion carried unanimously.*

7. [263-18-RC-13-SR \(Liberty International Trucks\)](#) Request by applicant for approval for the installation of a 100kw generator at 132 Pierce Road (Tax Map 263 Lot 18) located in the Commercial District, original site approval (SR05-297 April 4, 2006)

Liberty Representative explained that they installed a generator without planning board approval. They were issued permits to install the gas piping and to install the generator and to have the electrical done. He handed out a sheet that had all of the decibel levels and other details on the generator.

T. Gaudiello asked for clarification on the 100KW generator.

Liberty Representative explained that this is a 480 volt three phase building that when they built it they ran it up from the Market Basket. It has a lot of power in it and they have this generator to make sure they can run on emergency backup. It is a brand new 2008 generator that had never been run and it is hooked up and is waiting for final inspection to get ready to go.

M. Gasses explained the decibel levels to the board.

*J. Kessler motioned and G. Calef seconded to accept application as complete. This motion carried unanimously.*

J. Huckins opened for public comment.

J. Huckins closed for public comment.

*J. Kessler motioned and G. Calef seconded to approve application. This motion carried unanimously.*

7. [269-11-2-RC-13-SR \(Daniel Ayer-Yesterday Construction, LLC\)](#) Request by applicant for a sign permit application to install signage to a display building located on a previously approved pad at 334 Old Concord Turnpike (Tax Map 269 Lot 11-2) original site approval (SR06-308 October 2, 2006)

J. Huckins explained that the sign meets our regulations.

*J. Kessler motioned and G. Calef seconded to accept application as complete.*

J. Huckins opened public comment

J. Huckins closed public comment.

*J. Kessler motioned and T. Gaudiello seconded to approve the plan. The motion carried unanimously.*

## **MINUTES REVIEW AND APPROVAL**

Approval of February 19, 2013 Meeting Minutes.

*A. Kelley motioned and J. Kessler seconded to approve minutes as presented. This carried unanimously.*

Approval of February 23, 2013 Site Walk Minutes

*A. Kelley motioned and G. Calef seconded to approve the minutes. This motion carried to all except for J. Kessler who abstained.*

**REPORT FROM THE PLANNING DEPARTMENT**

8. Discussion of a memo from Road Agent, Peter Cook looking for comments and recommendation from the board for a building permit for Andrew and Suzanne Kasprzak on Union Lake Road, a Class VI road.

J. Huckins explained to the board where the road is and that they need a recommendation from the board to the selectman before the selectman can authorize a building permit. He then said that Peter Cook is here so anyone who has any question can ask him.

G. Calef asked what they did to the road that makes it a class VI

J. Huckins said Peters comment was that the upgraded the road has already met the criteria that were set forward.

J. Huckins then explained the road standard that was set to be achieved and Peter Cook is letting the board and the selectman know that this has been achieved.

J. Kessler asked how many houses were on that road.

Peter Cook said that there are 6 there now.

J. Kessler asked for clarification on this road.

J. Huckins explained that because this was a class VI road the town does not have to maintain it. Because the town does not maintain it, for them to get a building permit on a class VI road they have to get permission from the selectman

T. Gaudiello asked for a citation

J. Huckins 674-41.

*J. Kessler motioned and T. Gaudiello seconded to give a recommendation and to concur with Peter Cook that this road is fit and we see no issue with issuing a building permit. The motion carried unanimously.*

**COMMUNICATIONS RECEIVED**

G. Calef and T. Gaudiello recused themselves from this conversation

M. Gasses said that Village Place is looking to finalize their conditions of approval and she just wanted to check back with the board. There was not a vote to have J. Huckins sign the plan when all the conditions have been met. When looking through the conditions of approval there was very little that had to be changed on the plans themselves. She wanted to know if the board wanted to take that vote so when all of these things have been met J. Huckins can sign them or if Mr. Falzone should come back.

J. Huckins explained that if they don't meet the conditions then it doesn't get signed and if they do then they are signed.

M. Gasses read to the board all of the plan conditions of approval.

J. Huckins explained the board gave the bonding and the release of the bond for all future subdivisions to the selectmen.

J. Huckins explained that for the modification on the funding, this board gave the selectman the authority to establish the bonding overseeing construction and releasing of the bond that we have done previously for all future subdivisions so that one is a selectman issue.

M. Gasses said that the other one for the selectman would be the bonding the performance guarantee.

J. Kessler thought the reason that we didn't say J. Huckins could sign it was because there were so many modifications.

S. Jeffery asked if they changed something with the design of the drainage.

J. Kessler said she did not think they had permits to cross the wetlands.

M. Gasses explained that they had all the required permits from NHDES.

J. Huckins explained that this was a part of the conditional approval that was granted by the board.

M. Gasses said that if they have them come back before the board then there would have to be a public hearing.

A. Kelley cited 676-4. He then stated that the question is whether we can designate J. Huckins.

J. Kessler was surprised that we gave them conditional approval with such a long list in the first place.

*J. Kessler made a motion A. Kelley seconded to make sure that whoever the chair is at the time would make sure he went over every condition and then sign the approval as a representative of the board.*

A. Kelley said we do not need a designee we only need evidence that the condition has been met. If the evidence is furnished then the board just says go ahead and sign it.

J. Huckins said that when all of those things are done, as staff when you come to us with the complete evidence of all the conditions being met we can vote on it without the applicant coming back in.

A. Kelley said that there doesn't need to be a public hearing it can be a work session where you bring it to the meeting, and we can approve it.

M. Gasses clarified that it is her job to make sure that everything on the list is there and J. Huckins can double check before he approves because he is putting his signature on it.

M. Gasses stated that she requested a check sheet today so she could review it for compliance with the approval.

J. Kessler reiterated that she thinks it is a long list.

M. Gasses stated that they submitted a list of bonding estimates that she sent to Jeff Adler. He is also going to come up with a proposal for the inspections. The attorney was okay with the documents that he reviewed which were the conservation easement and the other homeowner's association documents. Whatever he does not have she will make sure that they have. She will also make sure that they have provided a stormwater maintenance plan.

J. Kessler wanted to go on record as saying her concern is covering the town and making sure that there is some type of checklist that everything is received before an applicant gets his paper signed and done.

M. Gasses explained that when she reviews the submitted items she would verify that they match the requirements of the Notice of Decision. When she is satisfied, she will initial each item and date it.

J. Huckins added that in the past he goes through that notice of decision as well and verifies.

J. Huckins asked for public comment.

Daniel Ayer agreed with this and he thinks that it would work out perfect in other situations.

J. Huckins explained that sometimes he will get a call to go in to town hall on a Wednesday or Tuesday to sign a plan and he will go in and sign it. If it is set up where the planner has to bring the information back to the planning board it might be two weeks or longer before they get to sign it.

J. Kessler made a point that if there were 1 or 2 items we would give them the conditional approval to go ahead but this is a long list.

J. Huckins said that these are all minor issues.

M. Gasses pointed out that with some of these were easement language documents, for the board to expect the applicant to go and pay the attorney to review and finalize these documents without any kind of approval at all is a little bit much due to the cost.

J. Huckins said that if you take this list it is not that big it is only the state permits, attorney language, and bonding.

M. Gasses explained that Joe Falzone does not want this signed until April but it is important to ask now and not the last week in March.

J. Kessler asked for clarification on the RSA that A. Kelley read tonight

J. Huckins explained that this particular application will either be signed by the designee or come back to the board to give final approval.

J. Kessler said that she is okay with it being the designee but she is concerned that she does not want anything to be missed in the future.

J. Huckins closed public comment and wanted to bring back the board to have a discussion on policy.

J. Huckins clarified that for this particular application we will wait until conditions are met and M. Gasses will bring it back to the board for final approval, which could be done at a work session.

G. Calef and T. Gaudiello have returned to the table.

M. Gasses explained that she had included the letter that James Connelly wrote to the selectman and to the planning board in their packets.

M. Gasses stated that John Scruton suggested Jae Whitelaw attend the April 2, 2013 public hearing because Trinity will be back for approval.

J. Huckins explained that at the selectmen meeting last night, to put everything discussed in the simplest form, the selectmen do not want to spend any more money than they are presently planning on spending on roads and they don't want to change their timeline on what roads they want to fix.

J. Huckins expressed the reason why they want to continue is because they are going to have meetings from engineer to engineer with the discrepancy of cost for the offsite improvements. This is why it would be beneficial to have Jae Whitelaw at that meeting.

A. Kelley asked if we get a report of what the engineers discussed.

J. Huckins stated our decision is based on what kind of offsite improvement money would be brought forward and what has to be done must come from engineering science. The two reports from the engineers are very different this was why they are having a meeting and they will come up with a report for us, then we will have to make a decision on how it works. This is why we want to have Jae at the meeting.

M. Gasses explained Peter Cook would make himself available on Monday at 10. She explained that her, Jeff Adler and Peter went out and looked at the roads where as their engineer only looked at the borings.

J. Huckins explained his views on what needed to be done from here with regard to what information he has gotten from Jae Whitelaw and site review.

A. Kelley had a concern about the reports being available within the public notice period.

M. Gasses said that everything we have gotten in we are putting online.

### **REPORTS FROM OTHER COMMITTEES**

A. Kelley we wanted to talk about the site review on generators. T. Gaudiello and I had a conversation on this saying that we need to gather more information. The idea was that less than a 15 KW should this come before the board.

J. Huckins explained that we might need a higher cut off because residential does not come before the planning board and a 15 KW is not big enough to supply a business.

T. Gaudiello asked G. Calef about the refrigeration in his son's store.

G. Calef answered by saying he has a 5000 watt generator. He explained that food could last for 4 hours with the doors closed minimum.

T. Gaudiello asked what is adequate without the work around in terms of generators.

M. Gasses said that we had two in front of us today with certain decibel levels and asked if it was necessary for them to come here today.

T. Gaudiello said that if they are running a 480 volt that is the same power that runs into an automotive plant. That was a huge amount of power.

J. Huckins said that an appropriate thing to do is to give Tom performance standards that he can approve without coming before the planning board.

J. Kessler this is why we are discussing this saying that the generators can hear them and smell them at the school and the cell towers.

J. Huckins Article 7 of zoning has the performance standards. They are listed as vibration, noise, odor, air quality, heat, waste disposal, vision.

T. Gaudiello stated that the three things he talked about with Tom and Marcia was what kind of fuel, what's the power output and what is its size. He stated that if you have a diesel generator than there would be issues about storage of fuel whether they met the performance standards or not they would be under a non-reviewable item because of fuel.

G. Calef said that no one objects using a generator in an emergency but that does not always happen. I run mine once a week for 20 minutes. If they meet the performance standards than no one would object to putting one in.

J. Huckins if there is a diesel fuel generator with an outside tank, then there must be secondary containment. This brings it into a whole new issue of criteria as far as site review goes.

G. Calef stated that should also require a permit to install it.

J. Huckins stated that Tom would give the permit but the point is can Tom give a permit to install it without it coming in front of the planning board. T. Gaudiello's comment was about the different fuels. To say that Tom could give a permit for a gas generator and not a diesel generator is legit.

M. Clark clarified that gas meant propane gas.

T. Gaudiello said that the question regards performance standards alone or performance standards plus the type of fuel.

G. Calef said that the performance standards include decibels at the property line. In order to meet these standards there is no way for the town to measure it so we would need to bring in something from the manufacturer.

M. Gasses we should establish threshold for what the planning board should review, this does not mean that code enforcement is not going to still need to issue a permit.

T. Gaudiello said that site review applies to multifamily homes and commercial. If this is where we are going to put it, then that is where it belongs.

M. Gasses expressed we don't need to take care of this tonight, we took care of these 2 tonight and we know that you can go to a considerable size with propane and not have an issue.

T. Gaudiello said that we shouldn't regulate it based on considerable size. The question is whether substantial is a good word or do we need a number.

The board agreed that they need a number.

M. Gasses stated that she thinks we need to start with a standard. If you look at what size the Liberty Trucks generator was, it meets the setbacks it meets the decibel levels, are you comfortable with this level or should we adjust it higher or lower.

J. Huckins stated that the board is at a point where we need to ask if any generator needs to come before the board or can we leave it with code enforcement.

T. Gaudiello if you can exclude a set of generators by some regulation then it doesn't need to come before the board. You can't exclude generators in total. You should look at fuel, output and size

S. Jeffery cautioned on output because different generators have different sound detonating devices.

J. Huckins stated that the board just approved one of the biggest generators in town that was way below our performance standards.

T. Gaudiello wanted more clarification. If it meets the standard according to the manufacturer specifications, then that is fine.

J. Huckins stated that if someone comes before the board with meeting someone's certain standards why do they have to come before the board when they can just talk to the code enforcement.

T. Gaudiello asked what would happen if someone came to code enforcement with a generator that was above performance standards with intentions of doing modifications to it to meet standards.

J. Huckins said he would have to do it whether it comes to us or code enforcement.

T. Gaudiello stated he would have to think about this but when it comes to customization that is the opposite of a standard.

J. Huckins and J. Kessler discuss what type of fuel requirement and decibel level and secondary containment level would need to come before the planning board.

G. Calef suggested they apply the same level of performance standards on generators that they do to oil burners. He said we are routinely putting in fuel tanks for oil burners and there is a national building code that covers that. The only difference is the generator makes noise and the oil burner doesn't.

J. Huckins responded by saying that the oil storage for a furnace is on the inside of the home.

G. Calef said that he has a tank that is an outside storage that is inspected.

T. Gaudiello and G. Calef discussed the significance of leakage from tanks of generators and furnaces.

J. Huckins said that the planning board has not been doing its job in asking for secondary containment for any fuel tanks bigger than 5 gallon containers.

G. Calef said that this town has adopted the national building code and there are already specifications in the building code for fuel tanks whether the tank is in the cellar or outside.

S. Jeffery said that the building codes aren't concerned with the spilling of fuel into the ground. They only concern fires and stuff like that.

T. Gaudiello said that we could write a regulation that is more stringent on the code.

J. Huckins stated that we already have one in our stratified drift it addresses secondary containment.

A. Kelley that secondary containment doesn't address a furnace or generator it only looks at the size.

J. Huckins we have missed the boat on secondary containment because we should have been doing that for every business that has come in.

G. Calef asked why an oil tank is anymore hazardous on a business than on a residential.

J. Huckins stated that the planning board cannot regulate residential but we can regulate business. Our regulations do state that anything over a 5 gallon tank requires secondary containment.

M. Gasses said that sometimes the tanks have secondary walls to begin with so sometimes the board gets ahead of ourselves and we do not know what is in place.

*J. Kessler motioned and A. Kelley seconded to have the committee work on generators. The motion carried unanimously.*

T. Gaudiello brought up signs being an issue that has been brought up many times.

J. Huckins the size of signs needs to be addressed as well as the internally lit aspect of it. He also said that if you are consistently waiving a regulation then it is time to change the regulation. This should be looked at in site review.

T. Gaudiello brought up the hypothetical that if he were here and thought the board was running him around so much that he decided to put up the sign anyway outside the post office. This would be an illegal sign.

J. Huckins said that our sign regulations need to be worked on to make sure they are working. There could be a 5-10 dollar application to come before the board for signs.

G. Calef said he filed a written complaint about a store that has put in two internally lit signs without coming in front of the board.

M. Gasses said that most towns do not have signs come before the planning boards. Typically they are regulated by code enforcement. In addition, some of the illegal signs are placed in the state right of way and our code enforcement office will not touch them because it is the state's responsibility Mr. Abbott does not believe he has the authority.

M. Clark said there is a reluctance to monitor it.

M. Gasses said that in Dover they do sign sweeps and they may be going above and beyond what they are allowed to do.

J. Kessler said that these are minor things in her opinion. The problem is where the two businesses are next to each other and one sign is huge and one is tiny. She said that there is something wrong with our sign regulations.

T. Gaudiello stated that we shouldn't ignore these rules because that encourages ignoring other rules.

M. Clark said that code enforcement and planning board needs to work together.

J. Huckins stated that in the 4<sup>th</sup> week we need to have information on signs as a part of the meeting so this can be discussed.

**UNFINISHED BUSINESS**

**OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD**

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

The Board is scheduled to meet next on March, 19<sup>th</sup> 2013 at 6:30.

*J. Kessler motioned and A. Kelley seconded to adjourn. The motion carried unanimously.*

Respectfully submitted,

Gabriel Budds  
Planning & Landuse Intern