



**MEETING MINUTES
BARRINGTON PLANNING BOARD MEETING
Early Childhood Learning Center
77 Ramsdell Lane, Barrington, NH
Tuesday May 21, 2013
6:30 p.m.**

ROLL CALL

Members Present

John Huckins, Chair
Alan Kelley, Vice-Chair
Anthony Gaudiello
Dawn Hatch, Ex-officio
George Calef
Jackie Kessler

Members Absent

Steven Oles

Alternate Members

Stephen Jeffery

Town Planner Absent

Marcia Gasses

MINUTES REVIEW AND APPROVAL

1. Approval of May 7, 2013 Public Hearing Meeting Minutes.

G. Calef saw an error on line 236 where it states that T. Gaudiello stated that the definition of establishment, this needed to be clarified.

T. Gaudiello said that he remembered saying that the definition of establishment was a business and its employees taken from the Black's Law dictionary.

G. Calef stated that on line 340 the word should be concur and not conquer.

A motion was made by G. Calef and seconded by A. Kelley to approve the minutes as corrected. The motion carried.

REPORT FROM THE PLANNING DEPARTMENT

2. Discussion with Susan Miltner about opening up the entrance on Green Hill Road.

Susan Miltner was requesting to have their access reopened when they put the traffic light in on 125 and Green Hill Road. She explained that currently pulling out of their existing opening only works okay. In the winter they are pulling out in high slush that is hard to get through. She explained a scenario that her employees would be facing with the new traffic light to be put in that poses a threat to most of her employees who pull out and turn left. She saw no feasible way for this entrance to be sufficient or safe for her use. She also saw an issue with Chief Walker's statements about the red light being an egress onto 125 especially if there is a commercial vehicle and said that there would be a shorter green and a longer green on the other end.

J. Huckins took Rick's comments differently, he thought that if it is a red light and traffic is stacked up on Green Hill Road, if someone is coming out of their driveway they won't be able to turn towards 125.

Susan Miltner disagreed with this and said that all of her employees come and go separately and they do not all come and go all at once. She also wanted to clarify what a commercial vehicle was. Is it a UPS truck or a semi?

J. Huckins stated that those would both be considered commercial vehicles.

Susan Miltner then expressed that her operations manager has told her that it would be easier for commercial vehicles to come in the entrance on ColonialWay and exit onto Green Hill. She then asked how a big semi-truck would be able to pull out onto 125 with a line full of cars at a traffic light.

T. Gaudiello asked how far away her driveway was from the intersection she was talking about.

Susan Miltner was not totally sure. She said she would measure it again.

G. Calef said that this is not an issue of whether or not the board agrees with her it is all about what they have in the law. If you go to site review in 4.8.2 it states that access points shall not be located closer than 50 feet from an intersection and driveways have to be 150 feet apart.

Susan Miltner said that she would measure it and make sure that they would have this distance.

G. Calef said that in our site review regulations if you applied for a waiver the board would have the ability to listen to everything she says. Her driveway has to be at least 50 feet from the intersection.

T. Gaudiello asked if her and her employees were the only ones that use the driveway that she has deemed dangerous.

Susan Miltner stated that UPS and FedEx use this and another trucking company that comes in uses it as well.

J. Huckins stated that what she is going to want to show is the distance from the edge of Greenhill's right of way up to her intersection and then up to the edge of 125 right of way to her old entrance.

G. Calef stated that it was the interpretation of the planner that it was 10 feet from the state right of way to the entrance.

Susan Miltner stated that she did not have the money to spend on encroaching on the wetlands and putting in a new driveway.

J. Kessler arrived at 6:44

T. Gaudiello asked who is responsible for plowing the access she was talking about.

Susan Miltner said that she keeps her driveway to Fred's clear but the way to diamond driveway is done by someone else.

T. Gaudiello said he only asks this because she was mentioning the troubles of exiting with snow on the road.

J. Huckins said that it is a private road.

G. Calef said that this is a sticky issue because she has frontage on Greenhill Road and none on diamond way.

J. Huckins said the whole thing about having 1 entrance came from when they subdivided this into two lots and the land went from Greenhill Road to Colonial Way. The subdivision agreement was that all traffic would go out that way onto Colonial Way.

Susan Miltner asked if it would be beneficial to talk to the state.

J. Huckins said that she should get a letter from the DOT requesting how they felt about the safety of coming in and out. He suggested that she acquire a comment from DOT along with our town department heads.

G. Calef stated that the planner has already requested a letter from DOT.

J. Huckins suggested that she get a hold of the state to find out what is going on before she spends a lot of money with going forward with the application. If they recommend that it does not happen and our public safety officials recommend that it doesn't happen then we have to do what we think is the safest. It might be worth doing some research before starting an application.

A. Kelley stated that we need to take into consideration the additional work to the intersection that might come from the gravel pit.

Susan Miltner thanked the board for their time and said she would be hoping for the best.

3. Discussion with Barry Gier on notifying abutters for The Three Socios, Inc.

G. Calef has recused himself.

Barry Gier stated they had heard that they needed to re-notify the abutters prior to the next meeting they would be at and they had no issue with this but that they are still working out stuff and was not sure when they were coming before the board next.

J. Huckins said that the issue was brought up because of the reoccurring continuances and the board just wanted to make sure that the abutters knew before you came before the board next with new information and not just with a continuance.

REVIEW OF PLANS

4. [240-15.7 & 15.8-NR-13-LL \(Fisheye Properties, LLC and James & Elaine O'Donnell\)](#) Request by applicant to relocate a portion of the common lot line between lots 15.7 & 15.8 in order for the owners of Lot 15.7 to construct a detached garage on their lot located on Young Road (Map 240, Lots 15.7 & 15.8) in the Neighborhood Residential (NR) Zoning District. By: David W. Vincent; Land Surveying Services; Barrington, NH 03825.

G. Calef has returned to the table.

J. Huckins explained they are keeping the same frontage by changing the lot line in the middle. The lot that is being changed is going down in acres are from 2.48 acres to 2.28 acres. This exceeds our minimum requirement.

J. Kessler asked about the contiguous uplands and if it was the same.

J. Huckins identified a small wetland.

T. Gaudiello asked if this was the only wetlands on the property

J. Huckins said if you show a wetland you are supposed to show all of the wetlands so we can ask this at the meeting.

J. Kessler thought they usually label the contiguous uplands

J. Huckins said we could ask them to label the contiguous uplands.

J. Kessler saw that on the locus map, it said Long Marsh Road and there is no such thing as this anymore. It is just Marsh Road.

The board examined their plans and discussed certain issues that they thought came up.

J. Huckins said Long Marsh Road needs to be changed on the locus and the total contiguous uplands needs to be labeled.

G. Calef said that 22a on the application stated easements were not on the plan, when they actually are provided on the plan.

J. Kessler said they need to label their two foot contours.

D. Hatch said that lot line revisions said they only need to do 1 and 2.

J. Huckins said the contiguous uplands should still be shown on the plan.

A. Kelley said they don't show a driveway on lot 8.

J. Huckins said that they should show the proposed driveway on 15-8.

S. Jeffery said that the existing driveway does not have a negative slope to the ditch line it comes straight down into the road, and it is not paved.

J. Huckins suggested he goes to see code enforcement.

J. Kessler asked how they got a building permit without this in place and that 16 foot apron should not have been approved.

J. Huckins said that once you get a building permit you then need to get an occupancy permit. He didn't know what stage this is at.

G. Calef said the reason for the apron is so that trucks wouldn't ruin the road.

T. Gaudiello said that it wouldn't be a bad idea to mention this we need to have the slope and the apron should be there.

J. Huckins said that we could make our comments to code enforcement.

T. Gaudiello said that we should mention these and notify the office of what we have found.

J. Huckins said if we see an issue to repeat it then we can but we cannot go through the planning board with this.

T. Gaudiello said that if the topic arises for certain things we should need to go to enforcement. However, the planning board cannot be the place for complaints.

A. Kelley said that he can't say for sure whether someone is living there or not.

5. [234-1.3-V-13-SP \(Turbocam Inc\)](#) Request by applicant to amend Section 9.6 application for Special Permit for Construction in wetland buffer previously approved 6,887 s.f. of wetland buffer impact increasing the wetland buffer impact to 8,260 s.f. in order to reduce the size of the retaining wall site located on Franklin Pierce Highway (Map 234, Lot 1.3) in the Village District (V) and Stratified Drift Aquifer Overlay (SDA) Zoning Districts. By: Barry W. Gier; Jones & Beach Engineers, Inc.; Po Box 219; Stratham, NH 03885

J. Huckins said that they are asking to increase their wetland buffer impact. They want to change their retaining wall which would give a different impact. He then said that this is not something they can really do in plan review. This will be something we have to address when they come before us. From 9.6 we need to talk to them about reasonable alternatives.

S. Jeffery asked how this was not for seen.

T. Gaudiello said that the condition they are asking to alleviate exists because of what was approved in their application.

J. Huckins stated there is not something they can do tonight. We can possibly make a list of questions one being why this was not for seen.

T. Gaudiello said that his question involved how the height of the retaining wall addresses traffic. He also wanted to ask about item 3.

J. Kessler asked where he saw that they were heightening the retaining wall.

The board tried to figure out what was actually being asked and then decided to address these issues in the next meeting.

- 6. 268-1(Additional Lots) -GR-13-SUB (Gerrior Lane Trust)** Request by applicant to present a Section 9.6 application for Special Permit for Construction in wetland buffer, Subdivide and create 10 lots, construct approximately 990LF of roadway, a shared driveway and realign a portion of Saint Matthews Drive located on Gerrior Lane and Matthews Drive (Map 268, Lots 1, 1.1, 1.2, 1.3, 1.4 & 1.5) in the General Residential (GR) Zoning District. By: Michael Sievert, P.E.; MJS Engineering, P.C.; 5 Railroad Street; Newmarket, NH 03857.

J. Huckins said that they wanted to request to have the road without meeting the standards this is not what our regulations require. We made this clear they had to have the continuous loop and the dead ends could be no more than 1000 feet.

The board examined their packets away from the table and discussed any issues they saw.

G. Calef brought up the fact that they are not using the current map and lot system.

D. Hatch said that in some form there should be easements connected to each other.

J. Huckins said that the background in the original subdivision happened and there was a cease and desist order and the rest of the subdivision happened but the rest of the approval was gone.

T. Gaudiello wanted clarification about the lots that had buildings on them and how they were connected.

The board continued to discuss some of the other issues and the history of this plan furthering each other's knowledge on this application.

J. Huckins thought that the board discussed this enough to have a conversation with them about this when they come in June.

REPORT FROM THE PLANNING DEPARTMENT

COMMUNICATIONS RECEIVED **REPORTS FROM OTHER COMMITTEES**

T. Gaudiello said he had a group of proposed changes to address in site review.

D. Hatch stated that the night prior the selectman assigned what board they are serving on and Dennis Malloy will be coming to the planning board to represent ex-officio.

J. Huckins said that Mike should still be a part of the next public hearing because of his knowledge on the gravel pit.

D. Hatch stated that he thinks they probably will. She also stated that she would like to have information about things prior to public hearings.

UNFINISHED BUSINESS

OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

S. Jeffery handed out to the board the definitions involved in buffer zones that stated “on” all the way back to 2005.

T. Gaudiello agreed that or makes no sense and then stated that if you go back through he hasn't found anywhere that it was deliberately occurred. There was nowhere in the minutes that they changed this and there was nowhere in any of the documents that they told the people about the change. If you go back to 2000 the language was “or”. The question is what we do for the time being before we can actually make the change. This definition is ambiguous and ambiguity invites interpretation presumably we have made an interpretation and applied it if we haven't he needs to be told this now.

J. Huckins stated that when this was done he was not here when it went from no buffer to 35 feet and the planning board before he got on had made a decision that any lot created before the 35 foot setback did not apply. When they came to the 50 foot buffer the planning board as a whole felt that all lots created before this have the buffer not apply because when they show the buildable area on a lot to be created, when you took that buffer all of a sudden the lot might not be buildable.

T. Gaudiello stated that he understood that the planning board had this thought, and asked if they ever applied this thought.

J. Huckins stated that they had prior to 2001.

T. Gaudiello stated that the only language they have is from December 21st 2000. They thought that they should change this. He suggested that it should be changed in March but what they should do in the meantime is to interpret it with administrative gloss. Unless they have this presentation to the people and

accepted in some form, we need to go with our present interpretation and begin writing what we want this to say for next March

A. Kelley thought that what they need to do is sit with Jae and discuss it and get an opinion from her as to what it should be in the RSA, they are going to need to talk to her before they change it anyway.

J. Huckins said that even if you let it be “on” when you get the point where it says or, in the next sentence that’s down if you replace this with a period, it almost implies that any lot that have been approved by the planning board even ones after 2001 if they are unimproved they can go in the buffer.

T. Gaudiello asked if what he is doing is suggesting what should be there.

J. Huckins said no, actually he is stating what is already there if you leave the word on in there. It almost looks like no one would have to come before us for a special use permit if the lot was never built on even if the lot was created after 2001.

T. Gaudiello said that he thinks that they had a legal opinion. He said that they need to have the definition become consistently applied and unambiguous interpretation.

A. Kelley said that before they go forward and adopt a policy even for the rest of the year we need to talk to Jae about what it should say.

J. Huckins stated that last time they got a legal opinion he stated that they disagreed with them.

A. Kelley stated that they are going to need a legal review before the end of the year why not do it sooner.

T. Gaudiello stated that we do not have the language yet as to what we could present to her.

A. Kelley stated that they should write up questions.

T. Gaudiello felt that they should write up what it should say and submit that to Jae for her review.

J. Huckins said that this was not the issue, it was the issue of what we do in the meantime.

S. Jeffery said that he wanted to take this process slow, the ZO in 2010, 2008 and 2005 said on. Somewhere in the rewriting this year it got changed to “or”.

T. Gaudiello said that it’s not what they are doing about changing this, it is about what they did initially. He then read that initially it read as presenting to Barrington planning board, public hearing December 21st 2000 at 7pm for proposed zoning ordinance changes it reads this ordinance shall not prohibit the construction of principle and cursory structures within the buffer zones or unimproved lots that were approved for subdivision by the planning board. This was the only language that he found on this that was presented to the public.

A. Kelley said that in 2005 they were

D. Hatch said that it is addressing wetlands or unimproved lots.

J. Huckins said that we need to change it, but what do we do now until March.

T. Gaudiello made a motion that stated that “we are aware of what we are doing with 9.5.1 our rationale for doing this is that we have an ambiguous provision in the ZO we have interpreted it this way in the past and we shall continue to do so until a new ordinance provision is approved by the voters.”

T. Gaudiello motioned to do this and G. Calef seconded. The motion carried 4-2. S. Jeffery and A. Kelley voted this motion down. D. Hatch, J. Huckins, T. Gaudiello, and G. Calef voted for this motion.

A. Kelley requested to get permission to ask the lawyer about something that might clarify this.

J. Huckins stated that he should go to John Scruton to go ask if this is okay.

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

A. Kelley motioned to adjourn and G. Calef Seconded. The motioned carried unanimously.

Submitted Respectfully by Gabriel J. Budds