



MEETING MINUTES
BARRINGTON PLANNING BOARD MEETING
(NEW LOCATION) 572 Calef Highway (next to Elementary School)
Barrington, NH
Tuesday February 4, 2014
6:30 p.m.

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

ROLL CALL

Regular Members Present

Anthony Gaudiello-Chair
Alan Kelley, Vice-Chair
George Calef
Jackie Kessler
Jason Pohopek

Alternate Members Present:

Daniel Ayer
Stephen Jeffery

Member Absent

Joshua Bouchard

Town Planner: Marcia Gasses

A motion was made by A. Kelley and seconded by D. Ayer to move Other Business and Review of Minutes to the end of the Agenda. The motion carried unanimously

MINUTES REVIEW AND APPROVAL

Followed Other Business.

1. Approval of the January 7, 2014 Public Hearing Meeting Minutes

Acceptance of the minutes was deferred to the next meeting to allow D. Ayer to construct a paragraph to be inserted at line 350.

2. Approval of the January 14, 2014 Meeting Minutes

Without objection, the minutes of January 14 were accepted as presented.

3. Approval of the January 21, 2014 Meeting Minutes

The approval of the January 21, 2014 minutes was deferred to the next meeting.

ACTION ITEMS

4. **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. By: Jones & Beach Engineers, Inc., Barry W. Gier, P.E; 85 Portsmouth Ave, PO Box 219; Stratham, NH 03885
Request by applicant to continue until March 4, 2014

G. Calef recused

A. Gaudiello recused

*A motion was made by D. Ayer and seconded by J. Pohopek to continue the application to March 4, 2014.
The motion carried unanimously*

A. Gaudiello returned to the table

G. Calef returned to the table

5. **215-1-GR-13-Sub (River's Peak-Tim Mason)** Request by applicant for a 20 lot residential subdivision consisting of 3,050 linear feet of roadway and 12-acres of open space located on a 57 acre site located on New Bow Lake Road access from Boulder Drive(Map 215, Lot 1)in the General Residential Zoning District. By: Beals Associates PLLC, Scott D. Cole; 70 Portsmouth Avenue, 3rd Floor, Unit 2; Stratham, NH 03885

S. Jeffery to Vote

D. Ayer to Vote

Scott Cole representing the applicant and serving as the project engineer on the project introduced himself, Tim mason of Cabernet Builders and Justin Pasay of Donahue Tucker & Ciandella PLLC

J. Kessler arrived at 6:35 p.m.

S. Jeffery to sit out

Scott Cole went on to say applicant met with staff on January 22^h, including the Police Chief, Fire Chief, Road Agent, and Town Planner. Since the meeting the applicant had made revisions to the plans. The road had been widened to 24' and an extra cistern has been added at the entrance to the subdivision. The right of way surrounding the cistern located near the loop had been widened to included snow storage space and a 10' gravel shoulder for extra access. The 15' grading and drainage easement would also include the ability to cut tress in the first 1000' of roadway from Boulder Drive.

Justin Passy explained the applicant was before the Board to seek a waiver for the length of the road (15.1.2), which requires cul-de-sacs, dead-ends and loop streets with only one point of access from and approved street with multiple points of access have a maximum length of 1000. He believed granting of waiver was appropriate where strict compliance would cause extreme hardship, impractical, expense and the purpose of the regulation would be served by the alternative design.

Attorney Passy explained that connection with New Bow Lake Road would not be practical, as was connecting through Lots 3 & 4. He felt they had struck a good balance with the concerns of the Town.

D. Ayer asked about maintaining the gravel connection right-of-way with New Bow Lake Road once a year.

Tim Mason expressed he had not proposed maintaining the right-of-way and thought of it more for pedestrian and bicycle access. It would be a deeded right-of-way access for the Town to decide.

A. Kelley suggested a Boulevard concept from Boulder Drive; it would have provided technically two points of access. He expressed preference for the Boulevard as opposed to the waiver; he felt they needed to hold to the 1000'.

Tim. Mason explained the concern had been for blockage of the road caused by a tree coming down. It would take a tree of 100' in height to block the road given the changes made. The Town would have 80' in width they could maintain. During construction, if there were anything that could block the road it would be taken down.

J. Pohopek asked about fill extension from the construction of the road.

Scott Cole explained that the waiver was not necessary as the applicant met the Town regulations.

A. Gaudiello opened the floor to public comment on the waiver.

Ellen Mc Caleb expressed that the applicant was asking for an exception but she would be required to upgrade New Bow Lake Road if she chose to build on her property.

A. Gaudiello explained the concern was safety. The applicant had provided additional water and additional access for homes beyond 1000’.

Margaret Mausteller expressed that the Fire Department should get what they need for access.

Justin Passy read the waiver request into the minutes. See Attachment

Ken Newbury from 27 Boulder Drive asked about distance from the Isinglass River. He was also concerned with Nippo Brook.

Scott Cole explained they would have to go before the NHDES. They were not proposing any disturbance within 250 feet of the water.

J. Kessler questioned the claim by the applicant that the abutters were against upgrade to New Bow Lake Road. She had not gotten that impression tonight.

Arturo Cortina expressed that it was not fair to include perceived comments by the abutters in the waiver.

J. Kessler did not believe it should include comments from abutters in the waiver.

A. Gaudiello expressed it was up to the Board to determine what was relevant to the waiver request.

Tim Mason explained that six of those abutters present on January 7th did not object but he did not have an issue leaving it in or taking it out. He stated he would leave it in.

A motion was made by J. Pohopek and seconded by D. Ayer to accept the waiver as presented. The motion carried unanimously

A motion was made by J. Pohopek and seconded by D. Ayer to approve the waiver as presented.

Roll Call Vote

<u>D. Ayer</u>	aye
<u>G. Calef</u>	aye
<u>A. Kelley</u>	nay
<u>A. Gaudiello</u>	aye
<u>D. Malloy</u>	aye

J. Pohopek *aye*
J. Kessler *nay*

The motion carried 5-2

A. Gaudiello asked if there were remaining documents necessary to accept the application as complete.

M. Gasses explained there was still draft easement language to be provided. The applicant had expressed a desire to revise the plans and submit them to Dubois & King for review prior to the formal acceptance of the application.

J. Kessler asked if there had been discussion on the location of the mailboxes. She did not believe the carrier would enter into the subdivision as shown; they would probably require the boxes be located near the entrance to the subdivision.

Tim Mason expressed that they had had talks with and are working with the Postal Service Consumer Affairs in Portland. The Postal Service was encouraging central locations for delivery and they would work with them.

A motion was made by A. Kelley and seconded by J. Kessler to continue the application to March 4, 2014. The motion carried unanimously.

6. [233-29 & 30-NR-13-Sub \(Gary & George Ramsdell\)](#) Request by applicant for a 14 Lot Conservation Subdivision located on Ramsdell Lane (Map 233, Lots 29 & 30) in the Neighborhood Residential Zoning District. By: Michael Garrepy, Tuck Realty Corp; 34 Raeder Drive; Stratham, NH 03885

Mike Garrepy of Tuck Realty represented the applicant. Engineering comments were just received that afternoon and the applicant felt they could address the issues with plan revisions and notes. Looking for acceptance and returning in March.

J. Kessler asked why the application had not been accepted last time.

Mike Garrepy explained legal documents arrived a little late.

A. Gaudiello asked for public comment.
There was none

A. Gaudiello brought the discussion back to the board.

A motion was made by J. Kessler and seconded by G. Calef to accept the application as substantially complete. The motion carried unanimously

Mike Garrepy asked for comments from the Board.

J. Kessler asked for the length of the road.

Mike Garrepy 864'. They were not asking for any waivers.

Paul Mausteller asked if the Conservation Commission had reviewed.

John Wallace explained the Conservation Commission has reviewed and critical areas were protected.

A motion by A. Kelley seconded by J. Kessler to continue the application to March 4, 2014. The motion carried unanimously.

7. **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.

Request by applicant to continue until April 1, 2014

A motion was made by A. Kelley and seconded by D. Ayer to continue the application to April 1, 2014. The motion carried unanimously

A. Gaudiello explained the following application had been posted and noticed correctly but had been inadvertently left off the agenda. The Board would now hear the application under “Other Business that may properly come before the Board.”

8. **254-1-RC-14-Sign (Matt Trnovsky-Blue Water Marine)** Request by applicant to present a Sign Application and Waiver to replace an existing 4’x 8’ wall mounted sign with a 4’ x 6’ internally lit wall sign in same location on a 12.9 acre site located at 927 Calef Highway (Map 254, Lot 1) in the Regional Commercial Zoning District. By: Jason Pohopek, Surveyor; PO Box 2467; Barrington, NH 03825

J. Pohopek recused himself.

S. Jeffery to sit

Jason Pohopek represented the applicant. He explained the applicant became tech certified for Mercury and a requirement was the purchase of tools, manuals and a Mercury Marine sign. The sign would be 4’

X 6' the applicant required a waiver from 5.5.1(1) for an internally lit sign. The application included pictures of where the sign would be located on the building. The sign being replaced was 4'X8' in size or 32 square feet.

J. Kessler asked if there had been a discussion prior on two different types of light, she remembered one as being softer.

A. Gaudiello explained there had been discussion in the past about glare.

M. Gasses expressed that a prior applicant had explained that the light bulbs within the signs are all the same but that the location and surroundings of the sign affect the perceived brightness of the sign.

J. Kessler expressed by granting the waiver she did not want prior applicant who had not been allowed an internally lit sign angered by the decision.

A. Gaudiello explained that the Board has allowed many internally lit signs, the church, Frisbee, and the storage facility.

G. Calef expressed that the situation was similar to the situation with Liberty Truck.

D. Malloy asked for clarification on the specific sign and that the purchase of the sign was a requirement.

A. Gaudiello expressed that the final decision was the Planning Boards.

A motion was made by D. Ayer and seconded by G. Calef to accept the waiver. The motion carried unanimously

A motion was made by J. Kessler and seconded by D. Malloy to approve the sign application. The motion carried unanimously

J. Pohopek came back to the Board

REPORT FROM THE PLANNING DEPARTMENT

COMMUNICATIONS RECEIVED

A. Gaudiello explained Dartmouth College was asking for a focus group to look at questions for a survey they plan to distribute to well owners. He expressed concern with the timing of the group given the discussion going on in Barrington regarding wells at this time.

A. Gaudiello read from the letter to Tom Abbott.

D. Malloy asked if they were testing questions.

Discussion ensued.

M. Gasses would try to arrange for the group to meet during the day. The Board did not want it to be part of a Planning Board meeting.

REPORTS FROM OTHER COMMITTEES

UNFINISHED BUSINESS

OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

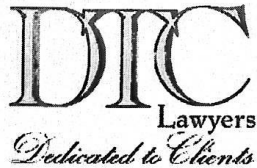
SETTING OF DATE, TIME AND PLACE OF NEXT MEETING AND ADJOURNMENT

February 18, 2014 at the Elementary School Annex

A motion was made by J. Pohopek and seconded by A. Kelley to adjourn at 8:10 p.m. The motion carried unanimously.

Respectfully Submitted,

Marcia J. Gasses
Town Planner & Land Use Administrator



MICHAEL J. DONAHUE
CHARLES F. TUCKER
ROBERT D. CIANDELLA
LIZABETH M. MACDONALD
JOHN J. RATIGAN
DENISE A. POULOS
ROBERT M. DEROSIER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
DOUGLAS M. MANSFIELD
KATHERINE B. MILLER
CHRISTOPHER T. HILSON
JESSICA L. ECKER
JUSTIN L. PASAY
ERIC A. MAHER
PATRICK O. COLLINS

OF COUNSEL
NICHOLAS R. AESCHLIMAN

RETIRED
ROBERT B. DONOVAN

ROBERT A. BATTLES
(1951-2010)

January 23, 2014

VIA EMAIL AND US MAIL

Chairman, Planning Board
Town of Barrington
333 Calef Highway
Barrington, NH 03825

Re: River's Peak Subdivision Waiver Request

Dear Mr. Chairman and Board Members:

This firm represents the interest of Cabernet Builders ("Cabernet") pursuant to its Project Application for a subdivision proposed to be located on property off of Boulder Drive identified as Tax Map 215 Lot 1. This letter represents Cabernet's formal request for a waiver from application of Article 15.1.2 of the Town's Subdivision Regulations ("regulations") which caps the maximum length of dead-end roads at 1,000 feet through incorporation of Table 1 - "Road Design Standards."

1) Introduction

By way of brief background, Cabernet appeared before the Planning Board ("Board") at its 7 January 2014 meeting seeking acceptance of its application which was previously approved in 2005 with the road network as currently shown. Cabernet's application, however, was not accepted as it did not include a waiver request for relief from application of Article 15.1.2 of the regulations. On 22 January, Cabernet participated in a productive technical review meeting with Town officials during which time various public safety concerns, arising out of the proposed subdivision road's length, were raised and discussed. In response to those discussions, Cabernet revised its proposed subdivision plan in an effort to address the concerns of the Town and present a reasonable and functional plan which is similar, in many ways, to the successful Autumn Lane subdivision off of Route 202 in Barrington.

DONAHUE, TUCKER & CIANDELLA, PLLC

Exeter Office: 225 Water Street, P.O. Box 630, Exeter, NH 03833, 603-778-0686

Portsmouth Office: 111 Maplewood Avenue, Suite D, Portsmouth, NH 03801, 603-766-1686

Meredith Office: 56 NH Route 25, P.O. Box 214, Meredith, NH 03253, 603-279-4158

www.dtclawyers.com

Cabernet's revised plan contains a few noteworthy additions. First, for fire protection purposes, an additional cistern has been added to the plan and is proposed to be located in Lot 1 at the entrance of the subdivision from Boulder Drive. This cistern will complement the already proposed cistern inside the subdivision loop immediately adjacent to Lot 19. Previously, Lot 19 was the northerly abutter to Open Space "B." Pursuant to the revised plan, Open Space "B" has been removed, Lots 19 and 20 have been enlarged, and the R.O.W. was extended 50 feet around the center cistern and the mailbox kiosk to promote ease of access to public safety personnel. Additionally, a 10 foot gravel shoulder is proposed between the two which will enhance emergency access.

In addition to the second cistern, the proposed road is now 24 feet in width, two feet larger than 22 feet required by the regulations. The widened road will allow greater flexibility in accessing the subdivision in the event of an emergency. Lastly, Cabernet plans to dedicate what is depicted as a 50 foot R.O.W. connecting the eastern side of the subdivision loop with New Bow Lake Road, as a Class VI road. This amendment promotes flexibility for future development and potential public safety access.

2) Article 11.1 Waiver Criteria

Article 11.1 of the regulations permit the Board to approve waivers to the regulations in two instances: 1) where the Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the regulations; or 2) where the purpose of the regulations may be served to a greater extent by an alternative proposal. Additionally, the Board will not approve a waiver request unless a majority of the members determine that:

- The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest;
- The waiver will not, in any manner, vary the provisions of the Barrington Zoning Ordinance, Master Plan, or Official Maps;
- Such waiver will substantially secure the objectives, standards and requirements of the regulations; and
- A particular and identifiable impediment exists or a specific circumstance warrants the granting of the waiver.

As explained in greater detail below, a waiver from Article 15.1.2 is appropriate under the facts and circumstances of this case.

A. Strict Compliance with Article 15.1.2 of the regulations would result in extraordinary hardship, practical difficulties, and unnecessary and unreasonable expenses.

Reconfiguration of the subdivision to comply with the 1,000 foot rule would result in extraordinary hardship, significant practical difficulties and an unreasonable expense. There are two primary options which could, in theory, bring the proposed subdivision into compliance with the 1,000 foot rule. First, Cabernet could propose to

upgrade that portion of New Bow Lake Road until such point as it intersects with the R.O.W. off the eastern side of the loop which is situated between lots 6 and 7 of the revised plan. Under this scenario, the R.O.W. would be developed and dedicated to the Town and would provide two access points to the subdivision. This proposal is impractical for several reasons to include the infeasibility of upgrading New Bow Lake Road, a Class VI road, and the staunch objection anticipated from its residents.

The second option is similar and would require Cabernet to develop a road through what is now proposed as Lots 3 or 4, as depicted on the revised plan, to join New Bow Lake Road further south. This option would also require an upgrade to the effected portion of New Bow Lake Road. In addition to the reasons stated above, option two is made impractical by the topography and grade of Lots 3 and 4. This proposal would also reduce Open Space "C" and defeat its purpose.

Proceeding with either of these options would be physically impractical, financially burdensome, and would be met by fierce objection from the abutters who appeared, for all intents and purposes, to be satisfied with Cabernet's proposal at the 7 January Board meeting during which Cabernet promised to return New Bow Lake Road to a better condition than it found it upon completion of the development. Cabernet reaffirms that commitment now. Moreover, as outlined below, Cabernet's revised plan addresses the public safety concerns regarding the length of the proposed road.

B. The granting of the waiver will not be detrimental to the public safety and will not vary the provisions of the Barrington Zoning Ordinance, Master Plan, or Official Maps. Additionally, the proposed waiver secures the objectives of the regulations and the circumstances of this application warrant the granting of the waiver.

In addition to widening the road, adding a second cistern and dedicating the ROW off the loop as a Class VI road, Cabernet commits to ensuring that there is no tree abutting the road that is large enough to block the road in the event that it were to fall thereon.

In light of all of the above, the public safety concerns regarding the length of the road in the proposed subdivision have been reasonably addressed through the revisions to the plan and the commitments made by Cabernet. The new cistern proposed to be placed at the entrance of the subdivision will enable fire personnel to address any fires up to the beginning of the loop. The cistern adjacent to Lot 19 will enable the personnel to adequately address the remainder of the subdivision. The removal of trees that could potentially fall across the road and block access will minimize the potential of an unreachable emergency. Accordingly, the revised plans and commitments of Cabernet secure the objectives of the regulations as each proposed lot is adequately accessible and protected.

Cabernet's application also promotes the public interest. The additional cistern at the entrance of the subdivision will be available to residents within 1,000 feet of it on

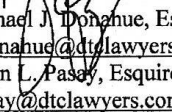
Boulder Drive. The dedication of the R.O.W. connecting the eastern side of the loop with New Bow Lake Road as a Class VI road will leave flexibility for future development and may one day provide a second access road to the subdivision. Moreover, the enlarged R.O.W. around the center cistern was designed to accommodate the Town's snow storage efforts.

Finally, the granting of the requested waiver will not vary the provisions of the Barrington Zoning Ordinance, Master Plan, or Official Maps and as explained above, substantially secures the objectives, standards and requirements of the regulations.

3) Conclusion

The unique circumstances of this subdivision application make compliance with Article 15.1.2 impractical because they would necessitate cost-prohibitive measures and may make compliance impossible altogether. Cabernet has addressed the public safety concerns expressed by the Town in a reasonable manner such that the spirit and objectives of the regulations are satisfied. For those reasons, we request that the Board approve Cabernet's waiver request.

Very truly yours,
Donahue, Tucker & Ciandella PLLC



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cc: Cabernet Builders
Scott Cole