

Barrington Conservation Commission
October 17, 2013 7:00 PM
Barrington Elementary School Annex, Professional Development Center

MEETING MINUTES

PRESENT: John Wallace, Chair
Pam Failing, Vice-Chair
Fred Bussiere, Selectmen representative
Ken Grossman

ABSENT: Anne Melvin
Peter Sandin, Alternate
Glenn Gould

CALL TO ORDER

Barrington Conservation Commission (BCC) Chair John Wallace called the meeting of October 17, 2013 to order at 7:05.

DELEGATION OF VOTING MEMBERS John Wallace confirmed the presence of members as above.

- 1) Guests: Marika Wilde, Alison Desmaris, Stephen Jeffery, and Marcia Gasses attended to observe the meeting.
 - a) Barry Gier, Jones & Beach, John Arnold, Jim Mitchell: well on proposed Village Place easement

Mr. Gier mentioned that at a previous meeting (June 20, 2013) the Conservation Commission had agreed to hold the conservation easement which would include the proposed well and proposed well easement. He added that this included the construction of a five car trail head on one of the adjoining lots in the open space. It was later noted that a motion to reconsider this agreement had been made at a subsequent meeting (September 19, 2013) in order to gather more information. Mr. Gier reviewed the plans to start with 8 acres allowed for exploratory drilling, and this would be reduced to 4 acres once the well was complete. Ken Grossman asked why the need for 4 acres, and Mr. Gier responded this is in case something happened with the original well and another drilling is required. Pam Failing asked about the anticipated withdrawal amount, and Mr. Gier said 4,000 gallons a day is the amount that is expected for the (four) uses involved. This could be expanded up to 14,400

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gallons per day should more businesses be added to the well, and Mr. Gier added that the 150' well radius allows for this increase. *(I don't think this is true. My understanding was that the 150' radius allows up to 14,400 gal/day).*

Pam asked who would monitor the well system. The response was that the owners of the lot would operate the system with the water quality being monitored by a water company which would report to DES. It was mentioned that this is a non-community transient well. Pam asked how deep well would be and the amount the aquifer could supply. Mr. Gier did not know the anticipated depth of the well, but did share that well drillers in the area have indicated that the aquifer should be sufficient to supply the withdrawal. Pam asked about refill/recharge rate of the aquifer and said that one concern she has is that given so much withdrawal she wondered what would be the effect on prime wetland. Mr. Gier mentioned that the plan is to drill one well to supply four businesses, and the three existing wells would be replaced with this one. Marcia interjected that this is not considered a large usage well, and the businesses will not be maxing out the 4,000 gallons per day. Ken asked if this is an easement within an easement and wondered if the applicants have to go back to the planning board. Mr. Gier responded that they are now in the process of a site plan with the planning board, and this would include the location of the well. John added that the well easement will be put in place before the conservation easement goes through. The applicants will have to go to the ZBA for approval of the well in the open space. The applicants suggested that verbiage should be in conservation easement to allow the well to go through. Pam brought up that the development was approved as a conservation subdivision and the original intent was to conserve resources. She questioned if this makes a problem or change of approval of the other subdivision (Village Place) since we are now changing the purpose of the open space. Marcia responded that this well would serve the master plan for growth in this area, and in her opinion she doesn't see an issue with the permit as it stands. Pam reiterated that this is after the fact and goes against the zoning. Pam said this is more about principle and a change of intent. There was discussion about the role of various town agencies – planning board, zoning board and how these boards will be concerned with the zoning requirements involved. Mr. Mitchell suggested that the Conservation Commission only needs to concern itself with the conservation aspect of the application, not the zoning impacts or questions as those are the responsibility of the other boards. Pam pointed out the need for the CC to be aware of the zoning regulations to better manage conservation. It was pointed out that a conservation subdivision does not have to have an easement on it. Marcia reiterated that the CC only need to consider the question of whether this well will be detrimental or have any impact on the conservation of this property. Pam spoke of the intent of the

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conservation land to conserve resources and it is not for commercial purposes. The applicants responded that the water is being used by the existing businesses anyway. Before Mr. Jeffrey spoke Marcia reminded him that as a sitting member of the planning board he needs to be cautious with the type of discussion he participates in as he will be considering the application as it comes before the PB. Stephen Jeffrey (128 France Road) said that he is speaking as a town citizen. He stated that what the applicants are proposing is a change of use and change of subdivision approval and that there is no statutory means to change the conditions of a subdivision approval beyond the rehearing period. Again, Marcia reminded Mr. Jeffrey that as a member of the PB he needed to be cautious in his remarks. Mr. Jeffrey went on to say that as a non residential use this would require a site plan. He also stated that open space, once it is proposed in a subdivision application, cannot be changed and this is a state law. He added that as proposed the application would require a new subdivision approval. Mr. Jeffrey stated that the proposed well would be in an open space and the use of open space cannot be changed. There was discussion about the role of the CC in this process and John Wallace stated that it was the job of the Planning Board to be concerned with the open space agreement and that the CC was to consider the easement. There was more discussion about the difference of open space and conservation easements. Pam reiterated that the proposal seems to change the original intent of keeping this as open space, and that as proposed it undoes the previous work done by the CC. Ken asked about the impact on the four acres surrounding the well head. Mr. Gier responded that it would be restored and revegetated and the only structure on the conservation land will be the wellhead and the underground lines. Pam asked about water rights and does another person have the ability to give water rights to a third party. Pam stated she does not feel this sets a good precedent. Pam asked if there was contamination who would be responsible for mitigation of the problem. The answer was that whoever caused the contamination would be responsible for the mitigation. It was mentioned again that the well easement would go in first and then there would be language in the conservation easement to include the well easement.

Ken Grossman made a motion that the Conservation Commission reaffirm its vote of June 20, 2013 to allow the drilling of a well on the conservation easement within the Village Place Development. Fred Bussiere seconded the motion. The motion passed with a vote of three (3) to one (1) in favor.

Grossman - aye, Wallace – aye, Bussiere - aye, Failing –nay

Previous to the vote Mr. Bussiere stated as a property owner in the area he had no reason to recuse himself from the vote, since he would have no need to use the proposed well. He also indicated that he has no financial interests in the proposal as presented.

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- b) Barry Gier, Jones & Beach: Yellow Dog's Barn wetland buffer impact If it is deemed necessary, this will be heard at a later meeting,
- c) Robert Churchill wetland buffer impact waiver Mr. Churchill (142 Waterhouse Road) would like to build a woodshop on his property and stated he would like to avoid crossing wetlands, but by avoiding the wetlands he would be impacting the wetland buffer (1500 square feet). He is proposing to build on an existing gravel woods road. He feels the proposed spot in the wetland buffer has the least environmental impact. It was pointed out that the site has already been impacted. John expressed concerns with allowing an entire building in a wetland buffer. Moving the building closer to the road would minimize the buffer impact, but Mr. Churchill said his preference is not to have the building within 10' of the road. The BCC agreed to a site walk on Sunday morning at 9:00.

Pam Failing left at 8:25.

- 2) Approval of minutes of Oct. 3 This was tabled until the next meeting.
- 3) Complaints: none
- 4) Old Business:
 - a) George Calef: ~300 acres along Isinglass LCHIP wants to do a site walk Friday the 25th at 2:00.
 - b) Potential new easement from M. Wilde: Marika's application to conservation fund has been received (\$3,500) There was discussion of public access across abutting land. Ken suggested approaching Mr. Muckian (Ham Road) for (temporary) permission to cross his land for access to the easement. Mr. Bussiere said that when considering acceptance of this easement the selectmen stipulated that if in the future an abutting parcel allows for public access, then this parcel should also allow public access. Marika mentioned that SRC, as the proposed secondary easement holder, voted to not have public access. Fred suggested Marika share with the SRC the selectmen's approval indicating public access. John stated that if Mr. Muckian allows (temporary) access now, SRC needs to be aware of this. Marika will follow up with SRC on the issue of public access.
 - c) Village Place/Gas station - proposed well, final easement language
 - d) Conservation Plan The CC will wait for Pam and Anne.
 - e) Treasurer's report - status of Stewardship fund (Pam) This will be covered at a future meeting.
 - f) BCC by laws (rules of procedure) - (Ken) This will be considered at a future meeting.
 - g) Steering committee for Master Plan Marika shared the timeline for the Steering Committee.
- 5) New Business:
 - a) Planning Board

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- i) Tropic Star (gas station) revised plans to review
- ii) Yellow Dog's Barn wetland buffer impact Possibly no buffer impact
- iii) Thunder Road subdivision: site walk discussion

This is not a conservation subdivision, but a 20 lot subdivision that was approved earlier but the approval has expired. The applicants are proposing the same subdivision with a few minor modifications. The proposal is for three different parcels of open space. One parcel is along Nippo Brook, one small one in center of cul-de-sac, and one for extraction of gravel (on site) and then reclaimed as turtle habitat. The plan is for the total <20 acres open space to be turned over to town ownership. Possibly there could also be a deed restricted area on some of the lots abutting the brook. There is an ongoing question if SRC would take the easement.

- iv) Gerrior revision: [268-1& Additional Lots -GR-13-SUB \(Gerrior Lane Trust\)](#). \$2000 donation to stewardship fund is still in arrears. There are no updates to the plan.

- b) Intents to cut None Fred had a conversation with Suzanne McNeil about letters going out regarding cutting on prime wetlands. Suzanne said she will insure that the form letter goes out with the approval to cut letter.
- c) Possible to change meeting dates to 2d and 4th Tuesdays? The meetings will stay on 1st and 3rd Thursdays.
- d) Marika and Alison expressed a willingness to serve as alternates on the CC.

Ken Grossman made a motion to have Marika Wilde and Alison Desmarais put before the selectmen as alternate members of the Conservation Commission. Should Julia Guimond express an interest she will also be put before the selectmen. Fred Bussiere seconded the motion. It passed unanimously with a vote of three (3) to zero (0) in favor.

Announcements/correspondence:

- d) NHACC meeting November 2 Anne is attending. Alison and Marika might attend.
 - e) DES: shoreland approval, Duvall, Peabody Way DES approved a shoreland impact on Peabody Way.
 - f) Isinglass Protection Committee This group will want to attend the next meeting to discuss a proposed rights based ordinance.
 - g) Town and City
 - h) Nov 9 John will do a Newhall walk. This is a tree identification/big tree walk with Dick Weyrick joining the group.
- 6) Easements:
- a) Easement monitoring: Middle School completed
- 7) Committee reports:
- 8) Next scheduled meeting: Nov. 7, 2013 (John cannot attend)

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Ken Grossman made a motion to adjourn the meeting at 9:25. Fred Bussiere seconded the motion, which passed unanimously with a vote of three (3) to zero (0) in favor.

Respectfully submitted,
Pat Lenzi

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

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