

Barrington Planning Board Meeting
May 21, 2009 - 7:00 PM
Land Use Office, Town Administration Building
Work Session – Review of plans scheduled for hearings – 6/4/2009
Possible consideration of revocation of the A. Harlan Calef Subdivision – File # 07/590
Possible consideration of revocation of the Gerrior Trust Subdivision

Members present: Chairman John Huckins
Selectwoman Jackie Kessler
Michael Clark
Edward Lemos
Alan Kelley (Alt)
Dawn Hatch (Alt)

Chairman Huckins opened the meeting to 2 discussions concerning a request from several abutters to initiate revocation of 2 subdivisions – A. Harlan Calef Trust & Gerrior Land Trust.

Initiate revocation of the approved subdivision of A. Harlan Calef Revocable Trust off Route 202 & 9 – Map 112, Lot 26 & 27

A packet of information including minutes and emails were given to each member. Hatch said she would not enter into the discussion as D & D Hatch had built the road after the lot line was approved. Huckins said the driveway represented in the subdivision stopped in the lot. It was continued through the lot when the lot line revision was done for the lots in back of the subdivision.

Kelley said he thought that the 4 lot subdivision had been modified by the road for the lot line. He said there were 2 driveways to service 2 lots each. Kelley said Austin Drive had been changed with the lot line. Kessler read from the narrative of the subdivision which stated that the 50 foot easement would be moved in the future with a road through the lot for the backlots and beach. Huckins said this let everyone know what the future intent was.

Huckins said the Board had required the applicant to build the road to the low volume road standards when the lot line revision was done. Huckins explained the plan and showed the road location and where it would meet up with Austin Drive.

Kelley said the driveway represented in the subdivision was upgraded to the rural road standards. Huckins said the road was shown on the lot line plans and clearly showed what the intent was. Kessler asked if there had been culverts installed. There had been 2 culverts installed to take care of seasonal runoff. Huckins said there had been no increase in runoff. Calef presented pictures of the road.

Huckins said the trees planted in Austin Way which blocked off access rights were a civil matter. Lemos said that the existing right-of-way on the subdivision plan had not changed. He said the new road was a better safer design. Kessler said the abutters were told ahead of time that the road would go through. Huckins said the conditions of

approval for both the subdivision and lot line revision were met. The subdivision was signed January 2008 and the lot line revision February 2008.

Huckins said we needed to decide whether something had been done wrong and revocation should be considered. Lemos said in essence the 4 lot subdivision had been approved and the applicant came back with the lot line revision to complete the road. He said nothing had been done to Austin Drive that changed the access. The Board had not taken any rights away from the existing lot owners. The tree barrier was a civil matter.

Kelley said nothing had been stated that took away the rights to Austin Way. Huckins said this would be a civil matter. Kessler read from the narrative of the subdivision.

Brushett said the notice for the lot line revision had not stated that the driveway would be changed. It was noted that Brushett had stated she had no problems with the lot line revision. She said the road was not discussed. Hatch read from the review session minutes which brought attention to the road several times. Brushett said the existing road was a dead-end.

Huckins said the road was discussed according to the minutes. It was shown on the plan. Lemos said the existing right-of-way was shown on the plan. Huckins said the Board was not stopping anyone from using the existing road. He said the road was shown on the approved plan. Kessler said the Board had not stopped anyone from using Austin Way. Huckins said the Board had no say in a civil matter. He said the trees were a civil issue between Calef and the abutters.

Huckins said that the Board had no jurisdiction in the tree matter. Lemos said he could not find any violations on paper. Kelley said the plan for the 4 lots was first heard in July of 2007, 6 months later the lot line modified it. Huckins said Calef owned all of the land involved. The lot lines improved existing lots.

Hatch said Road Agent Peter Cook presented a memo that approved the new road as it would be safer for all users and gave them a road that they could meet a car safely. Kelley said he still felt that the subdivision had been modified. Huckins said the applicant was making an adjustment on his own land and all abutters were notified.

Lemos said the new road was built and Austin Drive was not upgraded. He said the old Harlan Way had not been changed. Huckins said the lot line notices were for lot line revisions that would improve several lots. He said the applicant had asked to and shown an upgrade of the new road. Huckins said the abutters were at the meetings.

Kessler said the subdivision and the lot line revision plans were shown and no violations were seen. She said there may be a civil issue but the Board had not stopped the abutters from using the existing road. Kessler said if Calef allows the abutters to use the new road that would be between them and Calef.

Huckins said Brushett had asked the Board to consider subdivision revocation. Huckins said he did not see any violations that would initiate revocation of the application and plan of the subdivision or lot line revision. Lemos made a motion to deny revocation of the subdivision seconded by Clark; Kessler – yes, Clark – yes, Kelley – no, Lemos – yes, and Huckins – yes. **The request to initiate revocation of the A. Harlan Calef Revocable Trust Subdivision, File # 07/590 and A. Harlan Calef Revocable Trust Lot Line Revision, File # LL 08/216 was denied.**

Request to initiate revocation of the Gerrior Trust Subdivision by Steve & Ellen Conklin - Rte. 4 & Gerrior Drive to St Matthews Drive – Map 260, Lots 39 & 44 Map 268, Lot 1

S. Conklin said he and Ellen were present to initiate the procedural step for consideration of revocation of the Gerrior Subdivision. He said this would be the first step with no decision made. Conklin said there had been 2 100 year storms in the past 2 years. The downstream flow had created a great deal of problems on his land. He showed pictures of his driveway which had been affected. He spoke on the alteration of terrain permit which uses the USGS information on stream gauge. He said the perception data was used. This information was kept separate.

Conklin said he understood that we had talked with the lawyer with his concerns. He said there were areas of non-compliance still in effect. He said there has been good reliable water data available to use. He said that Appledore had been right in their report that stated there would be additional run-off. Conklin said the report indicated there would be downstream flooding and increased pollution into Mendums Pond. He said this would be significant and other action should be taken for pollution control.

Huckins said the Board was meeting with the developer on May 28 to discuss the status of the subdivision. He said that we were trying to work with the developer first. He said we could move ahead with other procedures if we did not think that he was negotiating in good faith.

Huckins said the Attorney felt that this was the way to proceed. He said that issues such as wetland violations, bonding, time frame of work, and second phase of development would be discussed. Huckins said the meeting on May 28 could open communications.

Conklin said that there should be a decision on the property. He said no down stream flooding was addressed in the Subdivision Regulations. Huckins said the flooding could be a civil matter. He said the Board could only address the issues before the Board. Huckins said that we would be making a good practice effort. He said there could be negotiations.

Clark said we did not deal in negotiations. Conklin said the flooding occurred above the average. He said he had been spoon-feeding the Board. He said the design needed to be re-checked. Huckins said that the premise was that the conditions had been broke. Conklin said the conditions were that there would be no additional down stream flooding.

Huckins said that we would need to know whether the issues had to do with design. Conklin said that we should take the material and look at the flow numbers. He said the Administrative Order was in place which meant a cease and desist order was in place. Huckins said even if the detention pond was built right there could still be additional water down stream. The design should show how to contain it.

Again Conklin said Appledore spoke on the flooding in their report. E. Conklin said that the flooding comes up to the height of the culvert. Conklin said this occurred with a 10 year storm as stated by DES. This 10 year event was much less than what was supposed to be addressed. The Regulations state a 50 year storm.

Huckins said Berger Group had reviewed the plans and material. Conklin said Whitney Inzer and John Wallace had provided information on the reports and the

proposal should have been stopped until Berger Group and Appledore could work out their differences.

Huckins said that we were not engineers so we depended on professionals such as Berger. Again Conklin spoke on the Appledore report. He said the culvert count was increased from 3 to 5 to Wood Road Brook. Conklin said we needed an as-built plan for what was constructed from the alteration of terrain permit. E. Conklin said what they did was install more culverts which was not the solution.

Conklin said that the engineers need to look at an as-built plan. Huckins said we listen to Berger Group as the engineering professionals for the Town. Conklin said they needed to check the flow volume data. Huckins said he thought that someone from Berger viewed the site and conditions. Conklin said asking about using the flow volume data was a reasonable question to ask. He said he wanted to know what the developer had used for the characteristics of the flow volume data.

Conklin said there had been a problem with the detention pond as to size. Huckins said we would try to get the developer to work with the Board. Conklin said there should be an assigned date for completion. Huckins said we wanted to work with the developer with both sides showing good faith.

Conklin said there needed to be a time line and checklist to address bonding, maintenance bond, wetland violations, and off-site flow. Conklin said he would like to suggest that the Board make a decision to initiate a revocation hearing. He said this would be just a decision to move ahead.

Huckins said we should meet with the applicant and see if he was acting in good faith. We could still initiate a revocation hearing if needed. He said this was the advice of our attorney. Huckins said the Board wanted the problems fixed as much as Conklin. Conklin said the applicant should make a commitment and stick to it. Hatch will let the Town of Nottingham know of the meeting with Peter Daigle.

Lemos said that Chris Skoglund of the University of Hew Hampshire had done research on the 100 year floods. He said that he might be willing to meet with the Board to discuss this. All agreed that it would be very interesting.

The Board moved to the review of plans scheduled for hearings on June 4, 2009.

Kessler said Jeffrey Hadden had been told by the Zoning Board to go before the Planning Board for a hearing on his proposal as there is no provisions for more that 1 unattached per lot in the Ordinance. Kessler said the Zoning Board suggested considering a cluster subdivision which did not contain the 20 acres required. She said this would give the Zoning Board something to look at.

Kessler asked if the 2 Boards could get together to let a person know which way to go to save him some money. Huckins said that the Zoning Board was similar to going to Court. They operate as a quasi board. He said we had made suggestions to Hadden and he choose to go to the Zoning Board first.

**File # LL 09/ Stanley Oliver / Susan Dombroski
Hall Rd. Map 121, Lot 11 & Map 122, Lot 2**

The plan was for a lot line revision so Oliver could set the existing house back farther off the road. Items discussed were:

1. Narrative
2. 2 Testpits per lot
3. Prove out buildable are on large lot
4. Colored plan
5. State – not in flood plain
6. Check locus – members feel on opposite side of road
7. Contiguous and total amount of upland soils
8. Curb cuts – driveways
9. No contours
10. Ask Attorney Whitelaw – Lot not up to 80,000 square feet – Improvement to what exists. Would there need to be more the land purchased or apply for an area variance

File # 09/ Pamela Talon

Province Lane – Map 233, Lot 41

Create a 2 lot subdivision. Items discussed were:

1. Narrative
2. Notes 10 & 13 of checklist
3. Waiver requested for remaining land – Address 5 criteria points
4. Stamp soil scientist
5. Identify width of class 5 road
6. Driveway for new lot

File # SR 09/ J & J Food & Fuel

Rte. 125 - Map 220, Lot 47

The applicant is planning to change the existing convenience store and deli into a 40 to 50 seat restaurant. The work would all be internal as the number of parking spaces would be sufficient. Material was presented stating the number of employees and hours of operation. The question of whether the septic system was designed to handle a restaurant of 40 to 60 seats was raised. Water supply – would this be a change in the well radius or status? Members wondered if the applicant was planning to change the existing sign. This will be discussed during the hearing process.

Lemos said Cynthia Copeland, Strafford Regional Planning Commission was very pleased with the meeting on May 14. He said she was impressed with the number of accomplishments made by the Board in the Master Plan. Lemos said Strafford Regional was working with Bruce Mayberry on rural density.

The next meeting of the Board will be held on May 28 with Peter Daigle of Gerrior Trust Subdivision to find out the status of the development. The meeting adjourned at 10:00 PM, motion by Clark, seconded by Kelley, all in favor.

Dawn Hatch, Clerk

