



**MEETING MINUTES
BARRINGTON PLANNING BOARD MEETING
Early Childhood Learning Center
77 Ramsdell Lane, Barrington, NH
Tuesday June 4, 2013
6:30 p.m.**

ROLL CALL

John Huckins, Chair
Alan Kelley, Vice-Chair
Anthony Gaudiello
Mike Clark Ex-officio
George Calef
Steven Oles absent.
Jackie Kessler

Alternate Members: Stephen Jeffery
Town Planner: Marcia Gasses

J. Huckins brought the meeting to order at 6:30 pm.

Stephen Jeffery to vote for Steve Oles

MINUTES REVIEW AND APPROVAL

1. Approval of May 21, 2013 Meeting Minutes

J. Kessler motioned and T. Gaudiello seconded to move the minutes to the end of the meeting. The motion carried unanimously.

ACTION ITEMS

2. [SR12/410 \(Gas Station and Convenience Store\)](#) Request by applicant to construct a 5,000 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.

G. Calef has recused himself

J. Kessler has motioned and A. Kelley has seconded to continue to July 9th meeting. The motion carried unanimously.

- 3. 250-79-RC-12-SR Associated Buyers (Steppingstone Farm Partnership)** Request by applicant for a site review to add one 3,875s.f. freezer and 4,237 s.f. warehouse addition 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 has returned to the table.

Chris Berry introduced himself and the application. He stated that the plan was sent to Dubois and King with some comments that they had addressed. The application had not changed since last months meeting.

J. Huckins opened and closed public comments.

J. Huckins wanted clarification that the plan was accepted as complete.

M. Gasses stated what the conditions for approval were. Jeff Adler had signed off on the plans.

J. Kessler asked if this application was the one where the applicant needed 3 copies.

M. Gasses stated that the final submission would include 3 final copies that will have the owners signature on it so that they have on for their records.

S. Jeffery asked if the parking was within 50 feet of the wetlands.

J. Huckins stated that the board had discussion on this and the application does not have to comply with the buffer because of the date that the lot was created.

S. Jeffery stated that because it was within the 50 feet it made the building non-conforming. He stated that 9.5.1 did not exempt unimproved lots.

T. Gaudiello motioned and G. Calef seconded for conditional approval with the conditions as stated. The motion carried 5 to 2.

J. Kessler motioned and T. Gaudiello seconded that the chair at the time signs when the conditions are met. S. Jefferies voted this down. The motion carried 6-1.

M. Gasses said that she understood that this board voted at a prior meeting to interpret the zoning ordinance as it had been interpreted by the zoning administration.. In the future she would advise the board to interpret it in the way that the board as a whole voted to interpret the zoning ordinance and not deny based on one personal interpretation of the zoning ordinance.

J. Huckins stated that this was also the recommendation from the legal counsel.

A. Kelley asked why a board member would be constrained to vote other than personal belief.
J. Huckins said that the board is supposed to vote on whether the regulations were met by what the ordinance says and not on a personal agenda.

A. Kelley believed that this is what S. Jeffery's vote was not met.

Jae Whitelaw stated that the board as a whole interprets the regulation and when the board as a whole makes an interpretation on the regulations this is the interpretation that must be applied.

S. Jeffery asked what if this decision conflicts with public record.

Jae Whitelaw said that then what this is doing is calling into question the validity of the board's decision to vote. If this decision was not challenged than an argument could be made to the board that it could change its decision and have a discussion and motion on this. All that J. Huckins is saying is that once the board has made an interpretation than this is the boards position as to what the interpretation is.

4. 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.

FX Bruton stated that they continued last month due to a concern that was raised by the town's engineer. He stated that Jeff Kevan the project engineer would explain what the problem was and how it was addressed. He also stated that the town's engineer has looked over how this was addressed and has found it acceptable.

Jeff Kevan stated that the sight line distance issue came up and they were 5-6 feet short. They talked about shaving 4-6 inches off the crest of the hill to provide adequate sight distance to comply with regulations. This then triggered them to work with the engineer to address safe stopping sight distance. They also decided to pull the driveway down Greenhill Road, away from the crest so they not only have the sight distance but now they also have the stopping sight distance that the engineer wanted them to achieve.

J. Huckins said that there were two outstanding issues there was the issue just addressed and the developer's agreement.

FX Bruton said that they had been working on this document with the review of town council. Basically the developer's agreement provides for some changes to the plan. One of the only issues they had was they had requested that a permit be issued for a period longer than a year recognizing the controls over the project with respect to if something happens and what they can do about it. They had a lot of power that is given to the board with respect to suspending a permit or even revoking it under RSA 155e. They also talked about this in the context of coming to an annual compliance meeting. They did not have a problem with this because the project has to be consistently compliant with the approval.

T. Gaudiello stated that item 10 talks about how they defined a truck and requested that they make it read combined gross vehicle weight rating.

FX Bruton stated that they did not have a problem with this.

M. Clark asked if the latest developer's agreement was the one he saw in his e-mail on the way in.

M. Gasses stated that the one he had was the staff recommendations which just had 2 suggestions that she had made.

S. Jeffery asked what the reason was for 26,001 pounds.

M. Gasses said that they needed to establish a cutoff point because they were concerned with weight on the road. Anything below 26,001 pounds was not significant enough to do damage to the roads. 26,000 pounds was a substantial cutoff point.

FX Bruton said that in her recommendation there were suggestions with respect to the developers agreement. There was something that was there a while ago which he didn't think was an issue. The second one related to equipment used for the improvements to the road and the only thing he would suggest is that they modify the suggestion to make it the last sentence that reads now "such excavation shall comply with the zoning and site plan regulations of the town of Barrington." He suggested that it say instead shall be in accordance with this site plan approval should they get it. He thought that this would be clearer.

M. Clark asked how the 250 dollars was arrived at.

M. Gasses stated that she thought the initial comment was 50 dollars which they didn't think was sufficient. They also added after talking with the police chief that after 4 violations they would have to come back to the board to figure out why they were having issues with compliance.

M. Clark wanted to clarify that they were after the permit holder not the truck driver.

M. Gasses said that if they wanted to push the fine onto the truck driver that is their choice but the Town is after the permit holder.

M. Clark stated that this seemed rather light.

A. Kelley asked if after 4 violations they could continue operations but they would have to come before the board.

M. Gasses stated that there is a fine involved.

A. Kelley asked if it was per violation, because the way he read it states that its \$250 for the first two offenses.

M. Gasses said that any additional offense shall result in a fine of \$500.

Jae Whitelaw said that there is a description of what the sign is going to read when you go onto the town road and one of the provisions is that the operator is going to look to the truck driver for the fine. She then stated that even though the provision does not specifically say that their permit could be pulled for continued violations, the board could still discontinue their operations because it is a violation of their approval.

T. Gaudiello thought that this fine was for entering and exiting and he only read that it stated exiting

M. Gasses stated that she did reword it if you looked at the staff recommendations. She stated that she wanted to make sure that the vehicles with a GWR over 26,000 pounds would not come in from 202 either.

T. Gaudiello stated that when they move to take action on this agreement that item 10 should be replaced by revised 10 in the recommendations.

M. Gasses agreed.

A. Kelley stated that he would like to see it say each additional instead of any.

The board changed it to say each additional instead of any.

M. Gasses said that she also wanted to change that it says enters or exits from the westerly direction.

T. Gaudiello wanted to clarify that it read the holder of the excavation permit shall be fined \$250 for each of the first two offenses thereafter each such additional offense.

M. Gasses agreed and said that on number 2 they changed site plan regulations to say site plan approval

T. Gaudiello asked the board to take a minute on this. He asked which is the broader the site plan regulations or approval, or were they equivalent.

M. Gasses said that they gave their approval based on these regulations and said that she was comfortable with either.

T. Gaudiello asked if it was conceivable that one could violate the site review regulations and not violate the site review plan.

Jae Whitelaw said that it was conceivable if the regulation was changed after the approval so that it would have a different impact but that regulation wouldn't apply anyway. She agreed that it made more sense to be specific to the site plan approval because there are provisions that are stricter than the regulations.

G. Calef asked who was responsible for the enforcement of the 250 dollar fine.

M. Gasses said that it is code enforcement that enforces this and collects fine. The money is placed in the general fund and dispersed by the selectmen. We are restricting access to the people using this specific site plan.

Jae Whitelaw explained that the camera is going to look at what the violations are and this information will be shared with the operator and the town code enforcement. The operator is supposed to send the fines without any direction from code enforcement.

G. Calef clarified that in the agreement it states that they will put in a camera and maintain it.

M. Gasses said yes and that this is a part of the site plan approval.

Jae Whitelaw said that this is also in paragraph 10 of the agreement.

A. Kelley asked if they were asking for conditional approval this evening.

FX Bruton said yes.

A. Kelley asked this because there was another item as a part of the developers agreement that he thought should be on there and he did not see it. He wanted clarification on what would happen in the event of a bridge failure or closure of any kind. He asked if there should be a contingency plan and if the operations would shut down until the road was re-opened

Jae Whitelaw wanted clarification on if what he was asking was if the board could require there to be a backup plan if there was a problem with the access.

A. Kelley said that he thought this was important to have a backup plan since this was the access.

J. Huckins stated that the question he was asking was if something happens where they could not go towards 125 would the pit shut down.

Jae Whitelaw said that the pit would have to shut down until the planning board and the operator came up with a way to make the alternate access acceptable.

FX Bruton stated that they are restricted to go to 125 and either they would have to come up with an alternate plan or there is a fix to the road.

A. Kelley stated that these things happen and they don't know when these issues will come up. He thought that instead of having local officials devise something come that time, there should be something in developers agreement that states what their options are.

Jae Whitelaw thought that it would be very difficult to put in place a contingency when they do not know what would be causing a problem with access. She did not think that you could base a decision to make a contingency plan based upon the belief that the bridge would fail, especially when the experts have said that the bridge is safe for use.

A. Kelley stated that they don't know what the maximum GVW for this bridge is but they know that they have heavy trucks. He thought that they should know this before they pass this approval.

Jae Whitelaw said it was her understanding that the State had tested and approved bridge for this use and load. Given this information there is no evidence otherwise of any problems with the bridge.

A. Kelley stated that he went and looked at the bridge and saw problems with it such as lateral cracks underneath and the deck is old. He thought that the board should know more about this bridge before they pass this application.

M. Gasses added that every loaded truck going in and coming from the pit was weighed so they would know they are legal loads. The bridge is up for inspection again this fall and this pit will not be in operation by then. The board needs to go with the recommendations from the state bridge engineer for the capacity of the bridge. If there is any issue with the bridge this fall after inspection it will be brought to the attention of the board but given the numbers that are on the bridge right now it is one of the best little bridges in the state.

A. Kelley said that he had pictures that would argue against that statement. He did not think the deck is in good shape and thought that they should get another engineering evaluation of it. He then stated that he thought they talked about the bridge being replaced in 8 years and this is what triggered his thoughts of a contingency plan. This is a 12 year operation and it takes more than a few months to replace a bridge.

M. Gasses said that planning board at that time will address the issue. The replacement has not yet been added to the 10 year plan. The bridge is not structurally deficient it is just functionally obsolete because it is narrow. There are many bridges in the state that are structurally deficient which means that those bridges would move ahead of this one for improvement.

A. Kelley did not think that the bridge could be stated as structurally sufficient until they know what the GVW rating of it is.

J. Huckins stated that they had an engineering report come back that stated that it met the requirements.

M. Gasses clarified that the bridge was rated C-2 because it can carry any legally loaded vehicle. Any illegally loaded vehicle could be pulled over. There is a maximum level that considered legal nationwide and this bridge according to the engineer is capable of handling this limit.

A. Kelley asked what this weight was.

M. Gasses believed that it was 80,000 pounds and with a permit it is 112,000 pounds

A. Kelley asked if there was a statement from the state that it meets the requirement.

M. Gasses said that there was an e-mail a few months ago that stated that it could carry legally loaded vehicles.

M. Clark asked if the bridge was to be closed then the pit would stop.

G. Calef said that if the bridge closes the pit stops.

M. Clark asked if this should be in the agreement.

Jae Whitelaw stated that they are not allowed to go the other way.

M. Gasses stated that during the mother's day flood the bridge did not shut down.

J. Huckins opened for public comment.

Russ Brackett said he did not see where there was a scaling of vehicle going in and out.

M. Gasses said that this was on the plan.

Russ Brackett said he couldn't see how much closer they were coming to the abutter based upon the movement of the entrance. He just wanted to notify the new owner of the home what was happening.

Jeff Kevan stated that it was 150 feet from the property.

Russ Brackett requested that somebody from the town officially notify the abutters before they intend to start so they can get their wells tested, their foundations photographed and their homes evaluated. He wanted to do it right before they start operations.

M. Gasses stated that they were going to have to come in for a permit to operate and she can assume that they would not come in much before they are ready to start.

FX Bruton stated that permit requires that the abutters be notified.

Russ Brackett asked if it stated prior to actual start of operations.

FX Bruton in the permit it defines when the actual start date would be.

Russ Brackett is just looking for a timely notice of official start.

Jae Whitelaw asked FX Bruton if they had an anticipation of a date that they were planning on starting.

FX Bruton stated that they didn't.

T. Gaudiello said that as he understood it they were going to be pulling gravel from the pit for road improvements and this is going to precede the pit operations.

M. Gasses said that as a part of the developer's agreement there is an exception that they would be pulling from the pit for road work.

FX Bruton stated that there is not a problem with notifying the abutters before they start improvements to the road. He is suggesting that they add to the provision right now that notice be provided to the abutters before this work starts.

Jae Whitelaw said that in paragraph 6 of the agreement, because the board of selectman has authority to approve private parties working in the road there is going to be a meeting ahead of time to talk about scheduling and at that time the schedule will be determined and at that time the notice will be given. This will be added to the agreement. She stated that under paragraph 11 they will add that when they meet with the selectman at that point in time the notice will go out to the abutters as to when they anticipate beginning the limited excavation for the purpose of getting what they need to build the road.

J. Kessler asked for clarification on the type of mail it would be.

Jae Whitelaw said that it would be certified mail.

Matt Papas stated that the people in Rochester were missing from this discussion and requested that they were notified too.

M. Gasses stated that they would do this for the abutters in Rochester, which are listed on the plan.

Celia Bannenberg brought up the meeting that Marcia set up where they came up with a list of safety concerns from the abutters. She wanted to know why these issues were not being addressed.

Jae Whitelaw said that she spoke with Marcia after the meeting and she saw the list of comments that she had compiled. To the extent of what was reasonable for the board to address these concerns were added to the conditions of approval and will further be addressed in the operating license when it gets to that stage.

M. Gasses stated that she did not screen the comments from people but there were a few other items that she put on for consideration including putting some type of lighting on the 1 lane bridge sign so it stands out. She also suggested paving of the shoulder and the placement of a white fog line creating 10 foot travel lanes. It was to her understanding that the applicant was going to consider whether they could make these improvements. All of the comments that came were written but even amongst the group there was not a consensus on a lot of the issues. They tried to incorporate what they could into the conditions of approval.

Celia Bannenberg explained a few weeks ago she went to the selectman's meeting and they were in huge favor of doing over the entire road instead of one section. She hasn't heard much conversation of this either.

M. Gasses stated that the legal opinion for the selectman would be the same for planning board.

Jae Whitelaw said that the issue is that the need for improvements going the other way is not caused by the proposed use of this property when they can access their property coming and going from one way and only improving one side of the road.

Celia Bannenberg said that they were talking about road safety and they had extensive conversations with the police chief who initially had stated that he did not like the trucks going out to 202 because of the steep entrance to 202. They talked about the trucks coming in from 202 which is a different story which is just one way and then they would have to go out towards 125 making it hugely more safe because there would not be 2 trucks at the bridge and only 30 trucks going over the bridge instead of 60. The other point that the police chief brought up is that of the 30 trucks that includes all trucks like water trucks. She hasn't heard anything about this either.

T. Gaudiello said that trucks are defined by their weight rating.

Jim Conley said that he had read countless studies by those who hired very good engineering firms where they found shortcomings and he agrees with A. Kelley about the bridge. He then asked how the video surveillance would be monitored. He then asked if the residents could be given a list of violations for the trucks so that they could monitor it themselves.

Jae Whitelaw said that the camera would be there and be on at all times. This camera would alert code enforcement and the operator's office if a truck turns right.

FX Bruton said that the alert would be an immediate e-mail to the code enforcements office

Jim Conley asked what else would be monitored in terms of speed and response in emergency situations.

FX Bruton said that what they were improving the road so that they could safely travel on that road and monitor the turning so that they could go in that one direction. Commercial trucks do have other restrictions such as legal loads and they can be pulled over if they have too much in their truck.

M. Gasses said that then they would be monitored under law enforcement and for them to get their licenses they have to know the rules.

Jim Conley asked if there was anything else that could be done to provide added safety on the road like reducing speed on Green Hill Road.

M. Gasses said that the trucks were legally registered vehicles and had to follow the same laws of the road that all other vehicles do.

G. Calef said that the state law does not allow enforcement a speed limit of lower than 30 mph except in school zones.

Bill Potter said that there had been no talk of jake breaks and the noise is something that everyone is going to have to deal with in terms of sound. He said that he had not seen or heard of any talk of signage that would prevent the use of jake breaks. He then requested that this be a part of the conditions.

M. Gasses said that it came up for discussion and one of the abutters said that they are required on all trucks for safety. They are only needed if they need to stop abruptly or an emergency situation.

Bill Potter said that he felt that he was an abutter even though legally he wasn't considered one. He felt that all members on the pit side of Jessica drive should be notified as well.

Jae Whitelaw said that you can only legally notify someone who has the right to be notified. She suggested that the neighbors should get an e-mail list going.

Bill Potter said that if they wanted to be good neighbors then they would notify us.

M. Gasses said that in their defense they have notified people who were not under the state legal definition.

Elizabeth Doran Healy said that all of the talk has been about trucks and restrictions on the trucks and penalties for the trucks and signage and monitoring with cameras and penalties. She hasn't heard any kind of restrictions on the rock crusher. She thinks that there needs to be some strict penalties or regulations on going over the decibels. There should be enforceable financial penalties because she was told by the town code enforcer that he did not have any power. She said that they are missing the big picture which is noise

and dust. She thought that they need to have signage for jake breaks and enforcement for decibels. She thought that everything has been according to the applicant and it is disheartening. She thought that the bridge was not safe, and that it is only a one lane bridge. She agreed with A. Kelley that they should have some fore sight about the bridge.

Jae Whitelaw said that the board and she should have done a lesson on enforcement earlier in the process. Land Use Regulations are enforced pursuant to the statutes that deal with land use regulations and there are specific provisions in there for different types of enforcement. This operation is going to be subject to a site plan approval which the planning board is doing. It is also going to be subject to an excavation permit which the town has decided that the planning board is also in charge of. Each one of these is enforceable under different statutes. In terms of site plan approval, every condition that you see on a plan and developers agreement are there to address identifiable problems. If these things are violated, someone will identify it and notify code enforcement, or the selectman's office or someone else in the Town Hall. Code enforcement will then go down there and if there is a violation there will be a cease and desist order that will go out immediately. If after the letter is sent the issue goes to court and the court finds them guilty of committing this there is a 275 dollar per day in violation fine that is issued to the applicant. Usually, it doesn't get to that point because the land owner will come in and admit fault and then fix it.

Diane Senechal asked if notification of blasting applies, noise, and dust for any project or did it only apply to this specific project.

J. Huckins said that it applies to every project. The only thing that is different in this one is that as a part of the developer's agreement and performance standards if there is a violation there is a cease and desist order that goes out. He also said that if there are people within a certain distance they are supposed to be notified.

Mr. Faulkner lives at 232 Greenhill Road stated that 20 years ago they said they were going to come in and work 5 acres at a time and they came in and destroyed 200 acres. A cease and desist order was issued and nothing happened. The residents of Barrington had to come up with the money to hire a lawyer and stop the operation. He said that the cease and desist order is not as helpful as toilet paper and it will be the residents of Barrington who will have to fight this again because historically the town of Barrington has not.

Jeff Smith asked if it was legal for him to put up a camera.

Jae Whitelaw stated that the board could not give this type of advice.

Jeff Smith asked what the taxes would be on this property and if the town got anything from this.

J. Huckins said that we get a yearly tax for whatever the property is valued at by the town's assessment.

Jeff Smith asked for any help to the abutters from taxes that will be gained from this.

J. Huckins stated that the planning board has no authority over expenditures or money.

Maggie Fitzgerald asked about the performance standards, how the measure of nuisance, diminishing property values and safety concerns is made. How does Trinity come to compliance with these. She thinks that the planning board is obligated to the town to make sure that these things do not infringe on their rights.

Jae Whitelaw stated that an excavation pit is a permitted use in this district which means that the Town in adopting the ordinance by voting on it made the decision that this particular type of use was allowed. The Planning Board cannot prohibit it but they can attach conditions of approval in order to ensure in the best way that the use as operated does not diminish property values or cause safety hazards.

J. Huckins stated that they can talk in circles for hours on this but it does not change where they are at in the process

Randy Marist said that for people who are concerned about monitoring there are firms that you can hire to do this kind of work and if you do not agree with what the board does you have a very limited time to appeal this decision to either the zoning board or the state.

Russ Brackett said that there were some things that came out at the safety meeting that haven't been addressed. He just wanted to make sure that if this gets approved there won't be any problem with unloaded trucks coming in from 202 because right now there is nothing that says they can't come through if they are unloaded.

M. Gasses stated that any trucks that weigh more than 26,000 pounds are going to come from 125. Any trucks that require a CDL and weigh more than this are going to have come in or go out using 125. Also any loads entering or exiting will be weighed.

Jae Whitelaw said that if a water truck goes in full it's going to come out empty and this counts as 2 of the 60 trips.

Jason Pohopek stated that he was a contractor and asked for clarification if he was doing work on the end of Tolend Road can a loaded truck go down there.

J. Huckins said that as long as it's not going to the pit its fine.

Matt Papas read that in the town ordinance it states that any persistent uses that may be obnoxious or injurious by reason of production or emission of odor, dust, smoke, refuse, fumes, noise, vibrations or similar conditions or that are dangerous to the comfort, peace and general safety of the community are prohibited. He then asked how this not applies.

J. Huckins stated that they have performance standards which gives a criteria that they can have it meet these at the boundary line. He then stated that as a part of the agreement that they have, if anything goes beyond the boundary line this is going to be a violation of their approval. All of these things are addressed in the performance standards and on the plans.

Jason Pohopek asked who was in charge of rating the decibels or dust that leaves the property.

M. Gasses stated that in a site plan there is a process that includes the requirement of a fund for third party monitoring. There are going to be decibel meters at the property line as well.

Dianne Senechal asked if the abutters could monitor themselves and how the process works with going about issuing a complaint.

M. Gasses explained that folks that have concerns should first call code enforcement or call the planning office.

Bill Potter asked if the people in Rochester noticed a problem going on, did they have a right to go to Barrington's code enforcement.

M. Gasses said yes.

J. Huckins closed public comment.

J. Kessler asked where the vibration monitors will be placed.

M. Gasses stated that the experts would determine what they need to do and this expert is a person that the town would hire.

M. Gasses then went onto read her suggestions.

1)She recommended that a flashing light be added to the sign possibly with a solar powered light.

FX Bruton stated that the applicant had no problem with this.

M. Gasses suggested that they pave the shoulders along the portion of Green Hill Road that is to be improved, with a white fog line, creating 10' travel lanes. This would provide a visual reference for traffic and pedestrians.

FX Bruton stated that the applicant had no problem with this.

M. Gasses stated her revision # 10 to read as follows. There shall be no use of the westerly portion of Green Hill Road by any truck entering or exiting the site from or to NH route 202 (unless improvements

to said portion of Green Hill Road have been improved in the future to a point where the road is deemed suitable by the Town for such use). "Truck" is defined in this agreement as any truck or truck and trailer with a combined Gross Vehicle Weight Rating of 26,001 pounds or more. To the extent that a truck enters or exits the site, from a westerly direction, the holder of the excavation permit shall be fined \$250.00 for each of the first two offenses. Thereafter, each additional offense shall result in a fine of \$500.00. After four violations the Operator shall meet with the Planning Board to review compliance. Fines shall be submitted to the Barrington Land Use Department within (5) days of the violation occurring.

M. Gasses stated that they add a paragraph which states, "No excavation shall occur on the site for materials to be used for the improvements to Green Hill Road until a copy of the pit agreement executed by the owner, the agent, and the Board of Selectman has been filed with the Planning Board. Such excavation shall comply with the Zoning and Site Plan approval of the town of Barrington. The abutters will be notified by certified mail prior to the start of any excavation.

Draft Notice of Decision to read substantially as follows:

"Applicant", herein, refers to the property owner, business owner, individual(s), or organization submitting this application and to his/her/its agents, successors and assigns.

All of the precedent conditions below must be met by the applicant, at the expense of the applicant, prior to the plans being certified by the Planning Board Chair. Certification of the plans is required prior to commencement of any site work or recording of any plans. Once these precedent conditions are met and the plans are certified the approval is considered final. All plan notes must be adhered to.

Conditions Precedent :The applicant will submit utility clearance letters in accordance with Article 3.9.2 of the Site Plan Regulations.

M. Gasses stated that this just meant that public service okays where they put their power line. Plan notes. Revise the following notes on the plan drawings. Revise the sign wording on sheet 4 of 12 to read "Right turns prohibited for all truck GVWR of 26,001 lbs and over. This intersection is monitored by video camera. Fines will be imposed to violators" Revise notes 11 & 14, to include, "Notice to be given to the Town Engineer" Provide agreement with NHDOT on improvements to the 125 and Green Hill Road Intersection. Add the NHDES Aot Permit # to the plan. Add NHDES wetland permit # to the plan. Note 7 from the set of plans received 3-26-13 is missing from the plan set received on 4-17-13, please add the note to the plans. A final copy of the approved Developers Agreement will be provided to the board. Any outstanding fees shall be paid to the town.

M. Gasses then stated that the applicant shall submit three complete paper print plan sets and supporting documents as required in Article 3 with a letter explaining how the Applicant addressed the conditions of approval. This shall include final and complete reports for all items submitted during review for the town of Barrington's file. The Chairman shall endorse three paper copies of the approved plan meeting the conditions of approval upon receipt of an executed bond for all improvements, excluding buildings. The Planning Department shall retain a signed and approved 11" x 17", and PDF format on CD with

supporting documents for Town records. The final materials will be provided to the board for review at a public meeting. The board will review the materials prior to granting final approval and authorizing the chair to sign the plans.

M. Gasses then talked about General and Subsequent Conditions: When no active and substantial work, required under this approval, has commenced upon the site within two years from the date the plan is signed, this approval shall expire. The two year period will be automatically extended to the extent the selectmen's permission for the applicant to construct the improvements to Green Hill Road is granted more than 45 days after such permission is applied for. An extension, not to exceed one year, may be granted, by majority vote of the Board so long as it is applied for at least thirty days prior to the expiration date. The Board may grant only one such extension for any proposed site plan. All other plans must be submitted to the board for review to insure compliance with these and other town ordinances. Active and substantial work is defined in this section as being the expenditure of at least 25% of the infrastructure improvements required under this approval. Infrastructure shall mean in this instance, the construction of roads, storm drains, and improvements indicated on the site plan. Applicant shall not begin excavation until they receive a permit to operate from the planning board except as otherwise provided in the developers agreement.

J. Huckins asked if FX Bruton was amenable to all these recommendations.

FX Bruton agreed.

T. Gaudiello motioned and G. Calef seconded for conditional approval with all the conditions as stated.

J. Huckins called a Role call vote.

J. Kessler said yes

G. Calef said yes

J. Huckins said yes

A. Kelley said no

S. Jeffery said yes

T. Gaudiello said yes

M. Clark said yes.

The motion carried for conditional approval to the applicant with a vote of 6-1 on the planning board.

- 5. 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 and a waiver from Article 15.3.2 #4 Driveway Design 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.

David Vincent gave a description of the lot line change and what they were doing with this. He made changes based on the recommendations from the board. He explained the relocation of the lot line and why they changed it.

M. Gasses stated that the applicant provided the topography as well as the test pit locations. She also said that in addition there are two separate questions here. There is a lot line revision and because of concerns that were raised in the meeting they also looked at the driveway and this will be addressed separately.

M. Clark asked about the waiver for the driveway.

J. Huckins explained the waiver for the driveway.

M. Gasses stated that there was also a letter from the road agent that explained the waiver.

J. Kessler stated that they were going to address the lot line and then they were going to address the driveway.

M. Gasses said that the driveway has no effect on the lot line revision. The applicant has a certificate of occupancy and the town is holding \$4,000 in surety for the entrance of the driveway.

J. Kessler motioned and T. Gaudiello seconded to accept the application as reasonably complete. Motion carried unanimously.

J. Huckins opened and close public comment.

J. Kessler made a motion and T. Gaudiello seconded to approve lot line adjustment. The motion carried unanimously.

J. Huckins asked Peter Cook for the distance of the road to the ditch line.

Peter Cook said approximately 10 feet.

M. Clark said that his concern was runoff for these lots. As they sit today they dump water into the road. He is also concerned about sight line distance, there are driveways in this subdivision that are troublesome.

Peter Cook said that originally they had the towns engineer come out and say that they had safe sight distance. He did what they needed to do and they stamped the plan and said it was okay.

M. Clark said that this was all they were asking for. He said that he wanted to make sure that they were not getting further away.

Peter Cook said that they had never gotten further away but when it was addressed someone should have notified him.

J. Kessler asked a question about what was paved.

J. Huckins stated that there was no pavement at this time because Peter made a recommendation to not pave until this issue was addressed just to make sure that they don't have to have their driveway redone.

M. Gasses read to the board the letter submitted from Peter Cook. She then stated that the issue was that the planning board approved drainage culverts and because of the topography out there they cannot get enough coverage without the waiver or the construction of closed drainage which the town does not have the resources to maintain.

J. Huckins said that the town had a regulation on culverts which is where the entire problem arrived.

S. Jeffery asked where the negative slope at the edge of the road is going to go.

J. Huckins said that it was going to go to the culvert which is at the edge of the ditch line, so any water coming down to the driveway will be diverted off before it gets to the road.

David Vincent explained this more in depth using the plan set as a visual.

M. Clark asked what happens if the town goes ahead and moves this road as discussed.

J. Huckins said that the pavement would be closer to the culvert which would make it better.

T. Gaudiello asked if there was a waiver in front of us.

M. Gasses read the waiver to the board.

J. Huckins stated that the drainage didn't go past the ditch line, it went to the ditch line but not past it.

J. Huckins opened and closed public comment to the waiver request.

J. Kessler asked what they have to make sure that it will be tarred.

J. Huckins stated that they have set up a bond to make sure that this happens.

M. Clark asked if the waiver they were voting on is exactly what she read or only the portion which she read that is applicable to the driveway.

M. Gasses said that he has addressed all the issues to the betterment of the town. The reason she brought this forward and wanted the road agent to understand was that if they don't meet the standard then they need a waiver.

S. Jeffery asked if their requirements in their subdivision regulations meet what is required by RSA 674.36.

M. Gasses said that they exceed it because usually with a waiver all they have to address is one of these and theirs addresses all of them.

A. Kelley asked if the driveway was in the easement.

J. Huckins stated that it has to be in the easement.

M. Gasses stated that he owns the property and the easement is to the town.

G. Calef motioned and T. Gaudiello seconded to approve the waiver request. The motion carried unanimously.

6. [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

Barry Gier came in requesting an amendment to a previously approved 9.6 special permit construction wetland buffer, he explained the permit and what it would do. They attended Conservation Commission and had their endorsement. They are going to reduce the height of the retaining wall to 9 feet in height, reduce the length in 4 feet on the south feet and 5 feet on the north end. They are also reducing the heat sink from the retaining wall and increasing green space. He said that they are reducing the size of the retaining wall because it will reduce the cost by \$100,000.

J. Huckins asked if they had anything written from Con Comm.

M. Gasses stated that John Wallace said that they had no issues.

J. Kessler asked for more information on the impact to the buffer.

Barry Gier said that they reducing the size of the retaining wall but are impacting more of the buffer in return.

S. Jeffery asked what they are impacting the buffer with.

Barry Gier said gradient.

S. Jeffery clarified that they were not using fill.

Barry Gier stated that they are using fill but they are grading inside of it. All impact is to the wetland buffer but not the wetland.

J. Kessler said that it almost sounds like less impact even though there is more in the buffer.

J. Huckins agreed.

S. Jeffery sites a problem that he finds with 9.5.3 and how it does not apply to 9.6 which is what they are applying for.

Barry Gier stated that they currently have a permit to build this retaining wall.

S. Jeffery said he understood this.

J. Huckins stated that in 9.6 a use not otherwise permitted in the wetland buffer.

S. Jeffery had a concern with how it was read.

J. Huckins stated that they had gotten input from Jae and the board voted on how to approve the 9.6. This is the way we have to interpret it.

S. Jeffery stated that this specific issue was not addressed by Jae.

The board then discussed this specific issue further. S. Jeffery read this language differently than the rest of the board.

J. Huckins opened up for public comment

Paul Ferber said he heard that that one of the provisions was that they had to demonstrate that this couldn't be achieved other than by this waiver and evidence by the fact that they have already had this drawing approved and designed that proved it could be achieved without the waiver. He then asked the surveyor or engineer to explain what the gradient changes were prior to the wall being changed and after the wall being changed. This will effect the runoff towards the abutters.

Barry Gier explained that there was no change in the grade, the top of the pavement is at the same level that it is. There will be a very minimal increase in flow to the wetland.

Diane Senechal asked if by pulling the wall in would it cause any effect.

Barry Gier stated that he was reducing the size of the wall, and increasing the size of green space which makes it less impact. He said that the landscaping plan hasn't been changed.

Rick Senechal stated that he was concerned about whether the state has looked at this and has seen if it has created a risk or made it better to the ponds.

J. Kessler stated that conservation commission has found no problem with this and they are extremely picky with the use and effect on the wetland.

Diane Senechal asked if further down the line the retaining wall would be moved further down.

Barry Gier said that all this does is move parking spaces so they were able to not build as large of a wall.

Paul Ferber said that this gives them more room for snow storage.

J. Huckins stated that they would have to get approval for new snow storage.

Diane Senechal said that they removed the silt fence and she had concerns about runoff.

M. Gasses stated that if they have a concern then come down to the office. However, Dubois and King will be down there inspecting during the time of construction.

Rick Senechal said he had no interest in saving them money and thought that they should plant some more trees to make a bigger buffer.

J. Huckins closed public comment

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

J. Kessler motioned and G. Calef seconded to approve. The motion carried with a vote of 6-1.

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.

Matt McCormick introduced himself and the application. He said that they were there to create a subdivision and explained where the project was located. The project includes 990lf of road way and they were also proposing to realign a section of saint Matthews Drive currently not built to road standards. The Homestead proposal was previously approved. This specific development proposal is reducing what was accepted last time. They are reducing the amount of roadway construction by 3600 linear feet and also reducing wetland impacts by 25,000 square feet. He then stated that all lots were going to be serviced by underground electric and have individual septic systems and drinking water wells.

J. Huckins asked for clarification on the back space on whether it was going to be open space and how much area.

Matt McCormick said that this is going to be proposed conservation land which consists of 34 acres.

T. Gaudiello asked if this was a change in an application or a brand new application.

Matt McCormick stated that this is a brand new application.

M. Gasses explained this as being a new project that comes from a previously approved subdivision.

T. Gaudiello asked that they are working with today's ordinance.

J. Huckins said that he was right.

J. Huckins asked if the claimed ownership of class 5 road because they were going to realign it.

Matt McCormick stated that they did claim ownership to this road.

The board discussed the issue of where the class 5 road ends and where the shared road was. The issues were discussed until everyone was clear on what was happening.

J. Huckins opened it up for public comment.

Donna Swanson wanted to help the board understand the new part of Saint Matthews Drive. She showed on the plans where Saint Matthews Drive extension was which is where the hitch is. The plowing did not

go beyond the hitch. She said that she was promised 50 foot wide strip of conservation land and she wanted to make sure that this stayed intact.

Matt McCormick explained to her where the easement was and that it will remain there.

Donna Swanson then asked about how drainage would be changed because she had problems with water in her front yard.

Matt McCormick explained to Donna what would be going on in terms of the new drainage plan.

M. Gasses said to the applicants that they will need to amend the conservation easement so the lots become buildable. She also stated that they would not be able to put ditch line in the conservation easement without going through a long process of revising this.

Matt McCormick asked the board about the process of vacate, alter or add more land to a conservation easement.

Jae Whitelaw explained that modifying or removing it from some land is difficult. The attorney general's office charitable trust division views conservation easements as being public trust so you would have to get approval from the attorney general's office.

M. Gasses said that as it stands right now she didn't see a lot as being buildable and saw the conservation easement as being unenforceable. She also suggested that they go see the conservation commission for more input.

J. Huckins stated that they would need to have a talk with conservation commission before they talk with the attorney generals office.

Paul Howes at 67 Homestead Lane area said he had 6 questions that he wanted to ask. The first question was whether the large conservation was in pertuity with the caviats that were already mentioned.

J. Huckins stated that if the subdivision gets approved than that is pertuity and it can't be changed unless they go through the whole process.

Paul Howes then asked what would happen to the existing dwelling at the end of Susan Lane.

Matt McCormick said that this would be removed.

M. Gasses added that this was the one comment that the code enforcement officer put. A condition of final approval was that this would be removed.

Paul Howes asked if the 10X10 pool of petroleum looking substance spill be investigated by a competent authority.

M. Gasses said that they have had conservations with DES. He should file a complaint with our code enforcement office.

Paul Howes asked

Paul Howes asked what would happen to the existing dwelling, the former Gerrior House on proposed lot 1.

Matt McCormick said that this would be removed as well.

Paul Baut asked if the private land dump to the north of the existing Gerrior house be removed to a land fill. It has caused an increase in vermin to surrounding homes.

M. Gasses asked him to take this up with code enforcement.

Paul Howes asked that it be required that the water runoff from the paved intersection of Gerrior Drive, Saint Matts, the proposed Heritage Drive be mitigated so the run off does not wash off the gravel portion of the road. The material washed out finds its way into the wetlands. This has been mentioned in the past and a planning board member said it was a civil matter.

Matt McCormick said that this would be taken care of.

Randy Marist asked if another water study would be completed.

J. Huckins said that another engineering study would be done.

Terry Conroy told a story about how he lost some land and was wondering how he could buy more land and how much.

J. Huckins explained that the most they can require for open space is 15% and they are at 34%. A lot line adjustment is part of a subdivision and happens quite often but is something that has to happen before it goes into conservation.

Donna Swanson just wanted to clarify in the original land use department plan of 990 linear feet of road is for Heritage Lane. She also asked what was going to become of the rock pile.

Matt McCormick stated that this was going to be used for Heritage lane and the rock pile would be removed.

J. Huckins closed public comment.

J. Huckins explained to them where they should go further and at this point in time and they should continue.

The applicant requested to continue to July 9th.

J. Kessler made a motion to continue to July 9th and T. Gaudiello seconded. The motion carried unanimously.

J. Kessler has departed from the meeting at 10:03 pm.

REPORT FROM THE PLANNING DEPARTMENT

COMMUNICATIONS RECEIVED
REPORTS FROM OTHER COMMITTEES

UNFINISHED BUSINESS

G. Calef explained the changes he would make to minutes of May 21, 2013 necessary for approval.

A. Kelley motioned and T. Gaudiello seconded to approve the minutes with the approved changes.

The motion carried.

OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

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

T. Gaudiello made a motion and G. Calef seconded to adjourn. The motion carried unanimously.