



**MEETING MINUTES
BARRINGTON PLANNING BOARD MEETING
BARRINGTON ANNEX**

(NEW LOCATION) 572 Calef Highway (next to Elementary School)

Barrington, NH

Tuesday January 21, 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

Members Present

Anthony Gaudiello-Chair

Alan Kelley, Vice-Chair

George Calef

Dennis Malloy, Ex-officio

Jason Pohopek

Members Absent

Jackie Kessler

Alternate Members Present

Daniel Ayer

Joshua Bouchard

Stephen Jeffery

Town Planner: Marcia Gasses

ACTION ITEM- PUBLIC HEARING FOR ZONING AMENDMENTS

1. Second Public Hearing for Zoning Amendments.

A. Gaudiello directed the Board to page four. Mr. Gaudiello discussed the formatting and reediting of the definition of Light Manufacturing based upon the comments from the first hearing. The proposal was to read Light Manufacturing: **By way of illustration and not limitation** the manufacture ~~ing~~ ~~predominantly from previously prepared materials,~~ of finished products or parts, including processing, fabrication, assembly, **machining of metal blanks, or other materials, assembly,** treatment and packaging of such products, and incidental storage, sales, and distribution of such products, ~~but excluding basic industrial processing of raw materials on a large scale~~ **provided all manufacturing activities are contained entirely within the building and where no process involved will exceed levels or conditions as set forth in the Performance Standards of the BZO or other applicable codes for noise, vibration, air pollution, noxious emissions or fire hazard.**

A motion was made by A. Kelley and seconded by J. Pohopek to move the amendment to the Warrant.

J. Bouchard to sit

D. Ayer to sit

The motion carried unanimously. This was Count (3) on page four.

J. Pohopek asked if “as recommended by the Planning Board” would be included on the Warrant.

A. Gaudiello expressed that passed practice has been to include such a comment.

D. Malloy questioned whether the vote count would be included. He stated the Selectmen would include the vote count on the Warrant Articles for the Selectmen.

A. Gaudiello asked what the Board’s preference would be for inclusion of the vote.

A. Gaudiello expressed he would look at the pasted Warrants and if the majority included the vote, he would include the vote on the Warrant.

A motion was made by A. Kelley to put the numeric vote on the Warrant, the motion failed for lack of a second.

G. Calef stated a vote count would differentiate the amendment from a petitioned article.

A. Gaudiello would review the Warrant from the past and go with the most stringent.

A. Gaudiello discussed Count #6 (15.3.2) He expressed that comments at the prior hearing expressed a possible conflict of interest. Review revealed the only possible conflict was with the Code Enforcement

Officer sitting on the ZBA, where the ZBA serves as the hearer of appeals regarding certain CEO decisions.

A. Kelley stated he had concerns with the proposed amendment. See attachment.

A. Gaudiello directed the Board to a response from the NH Municipal Association. See attachment B

J. Pohopek expressed that it was not a conflict of interest and being open and transparent is the key. Having knowledgeable people on the Board was important.

A. Gaudiello did not see where there was a conflict except with the Code Enforcement Officer sitting on the Zoning Board. The person would be making a judgment and then hearing the appeal of the judgment.

A motion was made by J. Pohopek and seconded by G. Calef to move 15.3.2 forward to the Warrant.

D. Malloy expressed that the Municipal Association attorney had been asked for an interpretation and that he trusted their opinion.

Roll Call Vote

<u>J. Pohopek</u>	<i>aye</i>
<u>D. Malloy</u>	<i>aye</i>
<u>G. Calef</u>	<i>aye</i>
<u>A. Gaudiello</u>	<i>aye</i>
<u>A. Kelley</u>	<i>nay</i>
<u>J. Bouchard</u>	<i>aye</i>
<u>D. Ayer</u>	<i>Abstained</i>

A. Gaudiello gave an overview of the changes to Article 12 and the reasons why. First created the Swains Lake – Water Management Zone Overlay (SL-WMZO). The Town had been advised by EPA and NHDES that there was an area under threat of expanded exposure to contaminated water supply from the Tibbetts Road Super Fund Site. All the amendments forward intended to address this issue and / or to re-organize the provisions of the Article. New water extraction sites (wells) were not allowed within the SL-WMZO

Page 10 Two new overlays inserted. Stratified Drift Aquifer Overlay (SDAO) and Swains Lake-Water Management Zone Overlay (SL-WMZO) into 2.1

Page 11 – Correction of Acronym – Groundwater Protection District **Overlay (GDO)** consists of the entire area within the municipal boundaries of the town. **The provisions of this Article are intended to protect both groundwater supply and water quality on a town wide basis. There are specific overlay areas within GDO that have been identified as being of particular importance or concern and for which specific provisions are given within this article.**

Page 12 Remove Header and Text unchanged to a 12.2.1(1)a This provided SDAO with its own indexed provisions for its definition and boundaries.

A. Gaudiello explained why he was going through all the amendments, stating he would call for repeal and replace of the entire Article 12.

Page 13 was voted to go as four separate amendments and given as a single in this form. The “O” for Overlay was added. This was clerical.

Page 14 In order to protect the groundwater in the SL-WMZO it was necessary to include provisions that effect “private residences.” When Article 12 was drafted, it was intended to apply to commercial uses of land. The reasoning being that uncontrolled commercial use threaten the groundwater sources with contamination where residential uses did not. Accordingly, all “private residences” were exempted from its provisions. This provision removed the exemption of “private residences” within the SL-WMZO

Page 15 Performance Standards. Establishes performance standards for new overlay district.

Page 16 Requires any new development to meet the water needs of that development from an off-site source or from the Swains Lake Village Water District.

Page 17

Amended at first hearing. Discussion had occurred regarding capacity. This amendment from the first hearing struck “previously exiting well capacity”.

J. Pohopek asked what would happen if an existing well were proposed to service 2 duplexes.

A. Gaudiello explained that a variance for the unusual circumstance was possible.

A motion was made by J. Pohopek and second by J. Bouchard to move forward 12.4.3(2)

Roll Call Vote

<u>J. Bouchard</u>	aye
<u>A. Kelley</u>	aye
<u>A. Gaudiello</u>	aye
<u>G. Calef</u>	aye
<u>D. Malloy</u>	aye
<u>J. Pohopek</u>	aye
<u>D. Ayer</u>	abstained

The motion carried six (6) in favor 0 opposed 1 abstention

Page 18 Exempts authorized testing of water including expansion of extraction sites. 12.4.3(3)

Comprehensive environmental Response, Compensation and Liability Act (CERCLA)

The standards and restrictions of this Article shall not apply to activities of the U.S. Environmental Protection Agency, the activities of the NH Department of Environmental Services, and/or other parties authorized under CERCLA.

Page 19 Addresses Renovation and Expansion revised from previous Public Hearing “**provided such development , renovation, or expansion meets the water supply needs of the development, renovation, or expansion from one of the following**

- 12.6(1) From an existing well on property
- 12.6(2) From sources outside SL-WMZO, or;
- 12.6(3) From Swains Lake Water District System.

A motion was made by A. Kelley and seconded by J. Bouchard to move the amendment forward to the Warrant.

Roll Call Vote

<u>D. Ayer</u>	<i>abstained</i>
<u>J. Bouchard</u>	<i>aye</i>
<u>A. Kelley</u>	<i>aye</i>
<u>A. Gaudiello</u>	<i>aye</i>
<u>G. Calef</u>	<i>aye</i>
<u>D. Malloy</u>	<i>aye</i>
<u>J. Pohopek</u>	<i>aye</i>

The motion carried with six (6) for and one abstention

A. Gaudiello summarized that the first six articles would appear individually and the remaining would appear as repeal and replace of Article 12 and all the changes that the Board went through would appear as substantive changes, so that in future years people would know what the Board had in their mind when the complete repeal and replace was done and what got repealed and replaced and why.

The Board took a break for 5 minutes.

MINUTES REVIEW AND APPROVAL

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

The minute approval was deferred to the next meeting.

REVIEW OF PLANS

3. [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.

A. Gaudiello described the application was for the replacement of an existing sign with a smaller internally illuminated sign. A waiver was required for internal illumination.

S. Jeffery asked that the hardship be made explicit.

J. Pohopek returned to the Board.

REPORT FROM THE PLANNING DEPARTMENT

4. Certification of Site Review and Subdivision Regulations.

A. Gaudiello explained the certification process. Board members signed the certification for Site Review and Subdivision Regulations.

COMMUNICATIONS RECEIVED **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 4, 2014 at the Elementary School Annex

A motion was made by D. Ayer and second by J. Bouchard to adjourn at 8:15 p.m. The motion carried unanimously.

Respectfully submitted,

Marcia J. Gasses
Town Planner & Land Use Administrator

For statement on proposed amendment to ZO 15.3.2

RSA 673:2 Planning Board

RSA 673:2 II (a) The selectman shall designate one selectman or administrative official of the town as an ex officio member and 4 or 6 other persons who are residents of the town, as appropriate; or ... (b) Option to elect board members]

It is clear the Selectmen are authorized to appoint one person of those who are selectmen or administrative officials, not two appointments or more. The one person should be a selectman. In the event of this amendment being approved for March vote and then voted favorably in March, and the appointment of both a selectman and administrative official to the board, an appeal of decision based on unauthorized appointment would likely succeed in overturning the decision.

The code enforcement officer cannot also be chair of a land use board, the code enforcement officer holding the position of chair creates a clear and undeniable conflict of interest.

A code enforcement officer, who is also a planning board member, cannot discuss merits of applications with planning staff, applicants, or participate in technical review; the discussion would be ex parte, and therefore not permitted by rule. This creates the undesirable situation of having the code enforcement officer either refusing to discuss an application or to discuss ex parte, in violation of the requirements of a board member, a circumstance which does not best serve the interest of the town, and a situation which does not need to be created.

The planning board has not seen a comprehensive legal review of this proposed amendment.

The zoning ordinance is properly written in its present form and should not be amended as proposed.

Alan A. Kelley

Attachment B ⁽¹⁾

Planning Department

From: legalinquiries <legalinquiries@nhmunicipal.org>
Sent: Monday, January 06, 2014 12:06 PM
To: amg@metrocast.net; barrplan@metrocast.net
Cc: Townhall@metrocast.net
Subject: Barrington: Question regarding "Administrative Officials"

Dear Mr. Gaudiello,

I'll address your questions in order.

1. From the context, I assume that you are asking about the definition of "administrative officials" in connection with the Selectmen's authority to appoint an ex-officio member to the Planning Board. Neither RSA 673:1, V nor RSA 673:2, II(a) define the term, nor does RSA Chapter 20 (establishing default definitions for terms not otherwise defined in another statute). We have interpreted the phrase to mean a person who holds some formal position with the town. It need not be a position the voters created, because Selectmen may create positions on their own so long as they remain within the budget. For example, Selectmen often create office positions for administrative assistants and form ad-hoc committees to work on a project. Anyone doing work on behalf of a town should be formally appointed in some documented manner, even if an oath of office is not required.
2. RSA 673:2, II(a) provides that the Selectmen appoint (1) either one Selectman or one administrative official to sit on the Planning Board as the ex-officio member, and (2) the remaining members of the Planning Board, who may NOT be Selectmen but may happen to be other administrative officials of the town.

Although the language in this section seems to leave some room for interpretation, RSA 673:7 permits only one member of the Planning Board to sit on the Board of Selectmen. This means that the Selectmen cannot appoint any Selectman to serve on the Planning Board other than the ex-officio (and the special alternate for the ex-officio member under RSA 673:6, III and IV). If the ex-officio is an administrative official instead of a Selectman, we still believe that no other position on the Planning Board may be filled by a Selectman. The intention of the ex-officio position seems to be for the Board of Selectmen to have one representative on the Planning Board and no more.

I hope this information is helpful.

Regards,
Christine Fillmore
Staff Attorney
NH Municipal Association
25 Triangle Park Drive
Concord, NH 03301
legalinquiries@nhmunicipal.org
1-800-852-3358, press 3 (or x3408)

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Attachment B (2)

From: John Scruton [mailto:Townhall@metrocast.net]
Sent: Monday, January 06, 2014 11:50 AM
To: 'A.M. Gaudiello'; legalinquiries
Cc: barrplan@metrocast.net
Subject: RE: Question regarding "Administrative Officials"

A.M. Gaudiello is the Chairman of the Planning Board and is authorized to make this inquiry.

John Scruton
Town Administrator, Barrington NH
Post Office Box 660
333 Calef Highway (Route 125)
Barrington, NH 03825
Phone: (603) 664-7395
Fax: (603) 664-5179

From: A.M. Gaudiello [mailto:amg@metrocast.net]
Sent: Monday, January 06, 2014 10:49 AM
To: legalinquiries@nhmunicipal.org
Cc: barrplan@metrocast.net; John Scruton
Subject: Question regarding "Administrative Officials"

Re: RSA 673:1 Establishment of Local Land Use Boards.

RSA 673, V: Every building code adopted by a local legislative body **shall include provisions for the establishment of the position of a building inspector, who shall issue building permits, ...**

Question 1 Is it reasonable (valid, correct, etc.) in reading the NH RSAs that "administrative official" is to be taken to mean an individual whose duties include the responsibility and commensurate authority to act on behalf of the municipality whether or not such designation is, in some way, formally documented?

673:2, II In other towns, the planning board shall consist of 5 or 7 members as determined by the local legislative body. **The membership shall be filled by one of the following procedures:**

672:2, II(a) The selectmen shall **designate one selectman or administrative official** of the town as an **ex officio** member and **appoint** 4 or 6 other persons who are residents of the town, as appropriate;...

Question 2: Does the phrase "one selectman or administrative official" in RSA 672:2, III(a) have the limiting meaning that only one seat [the ex-officio seat] on the planning board shall be filled from the set of individuals made up of all selectman plus all administrative officials?

OR-

Question 2a Does the phrase "one selectman or administrative official" in this RSA require that one seat be filled "ex officio" by designation of the Selectman by one of their body or one other administrative official, and that one or more other seats may be filled by members of the community who are, coincidentally, selectman or "administrative officials."

Thank you in advance for your consideration of this question.

A.M. Gaudiello

**Summary of Proposed BZO Amendments for Town Meeting 2014.
Last reading before Public Hearing.**

Overview: There are [6+15= 21] amendments.. In their final form four (4) are recommended by the board for adoption at the 1st hearing and two (2) are going forward to a 2nd hearing as (Article 18) substantively amended or (15.3.2) newly presented at the 1st hearing.			
Six of these (items 1 through 6) concern themselves with various issues.			
Ref#	Count	Index	Briefer Description
1	1	Table 1	In table 1 change excavation from “P” (permitted by right) in NR, GR, V to “CP” (conditionally permitted). This changes excavation uses from being permitted by right in certain zones to being permitted under specified conditions in those zones. In effect, this inserts an additional layer of review to excavation proposals (Gravel usually)
2	2	Table 1	Allowing Recreational use for 180 days per year (a secondary use) even though a secondary use usually requires a primary use to be in place at the site
3	3	Article 18	Updating the definition of light manufacturing to include specific standards regarding health and safety issues and nuisance issues.
4	4	6.4 & 6.4.1 to end of Article	Setting the yield plan (number of dwelling units allowed on a tract of land) for Conservation Subdivisions to be equal to the yield plan for a conventional subdivision. The savings to a developer in infrastructure costs are incentive enough.
5	5	9.5.1	Citing the effective date of the Wetland buffer. This simply inserts into the text the date the buffer provision was adopted and became effective
6	6	15.3.2	At 15.3.2: Remove the prohibition of service on the Planning Board by persons serving the town’s code enforcement functions.
Of the remaining 15, one(1) is located in Article 2 – Zoning Districts at 2.1 – Establishment of Zoning Districts (list of Overlay Districts).			
Thirteen (14) of the fourteen (15) concern themselves with Article 12 - Protection of Groundwater Protection District Overlay. Their overall purpose is to address the risk of spreading water contamination in the area of Swains Lake..			
7	7	2.1	Expand Overlay designations to include SDAO & SL-WMZO
8	8	Art 12 Title Heading	GROUNDWATER PROTECTION DISTRICT OVERLAY (GPDO) Strike P in G P-O and Insert GDO
9	9	12.2	Groundwater Protection District Defined
10	10	12.2.(1)	Delete header and provisions (This is a text move only – the text will be re-inserted at 12.2.1(1)(a))
11	11	12.2.1	Identification and Boundaries of Overlays within the Groundwater Protection District.
11a	12	12.2.11)	The Stratified Drift Aquifer Overlay (SDAO)
11b	13	12.2.1(1)(a)	Boundaries of the Stratified Drift Aquifer Overlay. With body text of the provision.
11c	14	12.2.2(1)	The Swains Lake – Water Management Zone Overlay
11d	15	12.2.2(1)(a)	Boundaries of the Swains Lake – Water Management Zone Overlay

12	16	12.3.2	Private residential use within the SL-WMZO subject to the provisions of this Article. (See Subsection 12.4.3)
13	17	12.4.3	Performance Standards within Swains Lake Water Management Zone Overlay Boundaries
14	18	12.4.3(1)	New Wells within Swains Lake Water Management Zone Overlay Boundaries
15	19	12.4.3(2)	Repair and Replacement of Existing Wells within Swains Lake Water Management Zone Overlay Boundaries
16	20	12.4.3(1)	Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA),
17	21	12.6	PROPERTY DEVELOPMENT, Renovation and Expansion

**Ref # 1: (Count 1) Location in the Ordinance Appendix 19 Table 1: Table of Uses
CUP for extraction of earth material: Table 1 – Table of Uses**

Existing presentation:

Use Industrial	Gen.Res	N.Res.	Village	Town Ctr	Reg.Com	Hwy Com. Dist. O.
Excavation Operations	P(1)	P(1)	P(1)		P(1)	P(1)

Footnotes to Table 1 (Meaning of numbers in parenthesis in the table)

(1)	All excavation operations shall conform to the Performance Standards specified in Section 7.1 of this Ordinance, as well as the requirements specified in the town’s Site Plan Review Regulations. The Planning Board may require an undisturbed and/or vegetated buffer of suitable size to be maintained between an excavation site and any adjoining properties if said properties would be adversely impacted by such an operation
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Purpose of the Edit

To provide for inclusion of specific items to be reviewed and documented regarding their potential effects of extraction operations within a residential zone. Applications will be reviewed under the Conditional Use Permit which required findings of compatibility with the environs and preservation of land value with the provisions of overall Performance Standards of the Ordinance

Edit as proposed to 1st hearing:

Use Industrial	Gen.Res	N.Res.	Village	Town Ctr	Reg.Com	Hwy Com. Dist. O.
Excavation Operations	P(1) CP(1)	P(1) CP(1)	P(1) CP(1)		P(1)	P(1)

(1)	All excavation operations shall conform to the Performance Standards specified in Section 7.1 of this Ordinance, as well as the requirements specified in the town’s Site Plan Review Regulations. The Planning Board may require an undisturbed and/or vegetated buffer of suitable size to be maintained between an excavation site and any adjoining properties if said properties would be adversely impacted by such an operation
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Narrative description of edit if appropriate:

In Table of Uses within Section “Use Industrial” Column at Row Excavation Operations, replace P(1) with CP(1) under General Residential, Neighborhood Residential, and Village District.

Comments

Public	None
Legal	None
Board	None

Disposition

Voted	Recommend to Town Meeting as proposed at 1 st hearing.
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Ref #2: (Cnt 2) Location in the Ordinance: Appendix 19 Table 1: Table of Uses. & Table 1 Footnotes

Existing Presentation

Use Accessory	Gen.Res	N.Res.	Village	Town Ctr	Reg.Com	Hwy Com. Dist. O.
Recreation	P	P	P	P	P	P

Purpose of The Edit:

The Zoning Ordinance defines Accessory Use requires that principal use exist and that an accessory use be subordinate in purpose to the that principal use. This amendment provides for the accessory use of "recreation" for limited periods of the year on certain lots that have no principal structure or use.

Edit as proposed to the 1st hearing

Use Accessory	Gen.Res	N.Res.	Village	Town Ctr	Reg.Com	Hwy Com. Dist. O.
Recreation	P(14)	P(14)	P(14)	P(14)	P(14)	P(14)

Footnotes to Table 1 (Meaning of numbers given in parentheses in the table)

(14)	In the absence of a primary use, a Recreational Vehicle may be utilized as a primary use for up to 180 days per year. Sewage disposal and other applicable code requirements shall apply
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Narrative description of the edit (if appropriate);

In Table of Uses Section "Use Accessory" Column at Row Recreation, strike-P and insert P(14).
Also, In Footnotes to Table 1 insert a row 14 which shall appear as given above.

Comments

Public	None
Legal	None
Board	None

Disposition

Voted	Recommend to Town Meeting as proposed at 1 st hearing
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Ref #3: (Count 3) Location in the Ordinance Article 18: Definitions – Light Manufacturing Existing Presentation:

Light Manufacturing The manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing or raw materials on a large scale.

Purpose of the Edit:

Bring current our definition of Light Manufacturing. There is a need to be as clear as possible in the definition provisions of the Ordinance as definitions determine the actual intent and purposes of other provisions within Ordinance.

Edit as proposed to the 1st hearing: t

Light Manufacturing: By way of illustration and not limitation the manufacture ing, ~~predominantly from previously prepared materials,~~ of finished products or parts, including processing, fabrication, assembly, machining of metal blanks or other materials, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, ~~but excluding basic industrial processing or raw materials on a large scale~~ provided all manufacturing activities are contained entirely within the building and where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emissions which will substantially disturb or endanger neighboring properties.

Narrative Description of edit (If appropriate)

n/a

Comments

Public	None
Legal	Re the last sentence added – while this may not be a legal issue, it seems that the neighbors should not have to wait until air pollution, noxious emissions or a fire hazard is “substantial” before anything can be done. What about no noise or vibration that will substantially disturb or endanger but the fire hazard, noxious emissions and air pollution has a lower threshold?
Board	None

Re-Edit as proposed based on 1st hearing commentary

Light Manufacturing: By way of illustration and not limitation the manufacture ing, ~~predominantly from previously prepared materials,~~ of finished products or parts, including processing, fabrication, assembly, machining of metal blanks or other materials, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, ~~but excluding basic industrial processing or raw materials on a large scale~~ provided all manufacturing activities are contained entirely within the building and where no process involved will *exceed levels or conditions as set forth in the Performance Standards of the BZO or other applicable codes for noise, vibration, air pollution, noxious emissions or fire hazard.*

Disposition

Voted Go to 2nd hearing on the edit resulting from the 1st hearing.

Ref #4, Part A:(Count 4) Location in Ordinance at Article 6 [

Existing Presentation:

6.1 PURPOSE

The 2004 Master Plan contains strategic objectives that recommend implementing changes in municipal regulations that encourage future land development activities to set aside more open space for the purposes of maintaining the town's character, protecting key natural resource features, preserving wildlife habitat, and creating recreation opportunities for residents. In an effort to achieve these and other related objectives of the Master Plan, the regulations contained in this Article are intended to encourage the preservation of open space by promoting greater flexibility in the design of residential subdivisions than would otherwise be possible following conventional subdivision practice. All proposals for development of a Conservation Subdivision in Barrington should be designed to achieve as many of the objectives listed below as possible given the specific characteristics of the site under consideration.

Purpose of the Part A Edit:

To insert the pertinent RSA reference at two places within the provisions.

Edit as proposed to 1st hearing:

6.1 PURPOSE

The 2004 Master Plan contains strategic objectives that recommend implementing changes in municipal regulations that encourage future land development activities to set aside more open space for the purposes of maintaining the town's character, protecting key natural resource features, preserving wildlife habitat, and creating recreation opportunities for residents.(RSA 764.2) In an effort to achieve these and other related objectives of the Master Plan, the regulations contained in this Article are intended to encourage the preservation of open space by promoting greater flexibility in the design of residential subdivisions than would otherwise be possible following conventional subdivision practice. All proposals for development of a Conservation Subdivision in Barrington should be designed to achieve as many of the objectives listed below as possible given the specific characteristics of the site under consideration. (RSA 674:21)

Narrative description of edit (if appropriate)

n/a

Comments:

Public	None
Legal	The reference to 674:2 is supposed to be 674:21
Board	None

Edit as proposed based on 1st hearing commentary:

Correct the inserted RSA reference: ~~RSA 674:2~~ to RSA 674:21 (Full text not provided – see above)

The edit is non-substantive (typographical error); No Second Hearing required

[Continue on to Reg #4 Part B]

Ref #4, Part B: Location in Ordinance at Article 6 [Existing Presentation

6.4..... DETERMINING PERMITTED DENSITY

The permitted density for a Conservation Subdivision shall be calculated based on a Net Density approach after having completed a site inventory of existing features on the tract proposed for development. The Net Density is the determination of how many dwelling units may be constructed on the tract after calculating the Net Developable Area, which deducts a percentage for certain features, such as wetlands or steep slopes, which are considered less suitable for development.

Purpose of the Part B Edit:

To set the permitted dwelling density or yield plan (number of houses allowed) for a Conservation Subdivision equal to the permitted dwelling density of a Conventional Subdivision. This amendment supersedes the various calculating methods described in the subsequent provisions of Article 6 which provisions are deleted.

Edit as proposed to 1st hearing:

6.4..... DETERMINING PERMITTED DENSITY

~~The permitted density for a Conservation Subdivision shall be calculated based on a Net Density approach after having completed a site inventory of existing features on the tract proposed for development. The Net Density is the determination of how many dwelling units may be constructed on the tract after calculating the Net Developable Area, which deducts a percentage for certain features, such as wetlands or steep slopes, which are considered less suitable for development.~~

The permitted density of dwelling units for a Conservation Subdivision shall not exceed the density of dwelling units permitted in a conventional subdivision within the proposed zoning district.

At 6.4.1 and forward: Delete 6.4.1 through 6.4.3(4). [Strikethrough text not shown.]

Narrative description of edit if appropriate.

The edit at 6.1 [Part A] is a simple insertion of a reference to the relevant state statute. The edits beginning at 6.4 [Part B] removes so called “bonus lots” as an incentive to creating conservation subdivisions. The experience over recent years indicates the increased flexibility and efficiencies of conservation subdivisions offer significant cost reductions to developers. The development savings alone derived from the reduction of infrastructure costs by reducing street length, utility requirements, drainage requirements, and the amount of paved surfaces is ample inducement for developers. Text stricken from the Ordinance (ZO 6.4.1 through ZO 6.4.3(4)).is not shown. This text deals with calculation for the yield plan (number of dwelling units permitted) is no longer inapplicable under this amendment.

Comment

Public	None
Legal	None
Board	Need to be sure dwelling density and yield plan are understood as indicating the same thing.

Disposition

Voted	<p>Summary Reg. #4 Part A:Correct the inserted RSA reference: The edit is non-substantive (typographical error); No Second Hearing required Reg. #4 Part B No change to amendment as proposed. Recommend to Town Meeting as proposed at 1st hearing.</p>
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Ref #5 (Count 5) Location in the Ordinance at 9.5(1)

Citing the effective date of Wetland Buffer Provision:

Existing Presentation:

9.5(1) A buffer area of fifty (50) feet is required from the edge of any wetland. If a vernal pool is determined to be located on a site a greater buffer may be required by the Planning Board.

Purpose of the Edit

To show the effective date of the “buffer requirement” in the provision that created it

Edit as proposed to 1st hearing

9.5(1) Effective March 13, 2001 a buffer area of fifty (50) feet is required from the edge of any wetland. If a vernal pool is determined to be located on a site a greater buffer may be required by the Planning Board.

Narrative Description of the Edit as proposed (if applicable)

n/a

Comment

Public	None
Legal	The phrasing here could lead to confusion in that it may give the impression that we are now presenting a provision to be effective years earlier. The phrasing ought to be clear in its purpose to “only” clarify and specify the effective date directly
Board	None.

As amended at 1st hearing

9.5(1) ~~Effective March 13, 2001~~ A buffer area of fifty (50) feet is required from the edge of any wetland. If a vernal pool is determined to be located on a site a greater buffer may be required by the Planning Board. This provision of the Ordinance was adopted on March 13, 2001 and is effective from that date..

Disposition

Voted Non Substantive Edit as proposed at 1st hearing: No 2nd hearing required. Recommend to Town Meeting as amended to 1st hearing

Reg. #6: Location within the Ordinance 15.3.2

[Note: This provisions will require a second a public hearing.]

Existing Presentation

ZO 15.3.2: Enforcement of the Zoning Ordinance

The Selectmen shall have the authority to enforce the provisions of this Zoning Ordinance. The Selectmen may delegate such authority to a Code Enforcement Officer. The Code Enforcement Officer may also serve as the Building Inspector, the Zoning Administrator or other like officer., but the Code Enforcement Officer may not be a member of any local land use board. This Ordinance may be enforced through all statutory or other lawful means.

Purpose of the Edit

This proposal strikes the prohibition of service on the Planning Board by individuals who serve a Code Enforcement function in the Town of Barrington. The intent of this amendment is to increase the appointment discretion of the Selectman.

This amendment does not remove the residency requirement nor does it intend that any such appointment by the selectman deviate from the usual and customary procedures of citizen appointments to the Planning Board.

Edit as proposed to the 1st hearing

ZO 15.3.2 Enforcement of the Zoning Ordinance

The Selectmen shall have the authority to enforce the provisions of this Zoning Ordinance. The Selectmen may delegate such authority to a Code Enforcement Officer. The Code Enforcement Officer may also serve as the Building Inspector, the Zoning Administrator or other like officer., ~~but the Code Enforcement Officer may not be a member of any local land use board.~~ This Ordinance may be enforced through all statutory or other lawful means.

Narrative Description of the Edit as proposed (if appropriate)

n/a

Comment

Public	Possible Conflict of Interest, Query from public How do nearby municipalities treat this issue?
Legal	None as yet from our council; As a general advisory this amendment is lawful.
Board	It was noted by the board that there was indeed the possibility of conflict of interest presented in the wording of the amendment. Suggestion was made that the wording by changed to read " <i>but the Code Enforcement Officer may not be a member of the Zoning Board of Adjustment</i> " since the ZBA serves as the hearer of appeals regarding certain CEO decisions.

Purpose of proposed Edit as made at the 1st hearing

To disallow service on the ZBA as this body may hear appeals of CEO decisions.

Edit as amended by 1st hearing:

ZO 15.3.2 Enforcement of the Zoning Ordinance

The Selectmen shall have the authority to enforce the provisions of this Zoning Ordinance. The Selectmen may delegate such authority to a Code Enforcement Officer. The Code Enforcement Officer may also serve as the Building Inspector, the Zoning Administrator or other like officer., but the Code Enforcement Officer *may not be a member of the Zoning Board of Adjustment* ~~any local land use board.~~ This Ordinance may be enforced through all statutory or other lawful means.

Dispositiion:

Voted Go forward to 2nd hearing as amended.

..

Summary

Intent and Purposes of the amendments to to Section 2.1 and to Article 12

Comment: We are advised by EPA and NHDES that there is an area under threat of the expanded exposure to contaminated water supply from the Tibbetts Road Super Fund Site. All the amendments following intend to address this issue and/or secondarily to re-organize the provisions of the Article.

- A) Specify and set boundaries for two areas within the Groundwater Protection District (GDO) one existing area and one new area:
Stratified Drift Aquifer Overlay(SDAO – Existing
Swains Lake-Water Management Zone Overlay (SL-WMZO) - New**
- B) Disallows new water extraction sites (wells and such like) on lots within the SL-WMZO.**
- C) Provide for repair and replacement of existing wells within the SL-WMZO**
- D) To require water supply needs for new residential or non-residential uses in a SL-WMZO to be obtained either from sites outside the newly defined area or from the Swains Lake Village Water District.**
- E) Renovation and/or Expansion of existing structures is not limited by the provisions of the revised Article 12 provided the water needs are provided by existing wells on the property. (Expanded based upon comments from the public.)**
- F) To make such non-substantive changes in format and presentation as may be necessary for consistency and clarity.**

Ref #7: (Count 7) Location in the Ordinance ZO 2.1

Existing presentation

The designations for the overlay zoning districts are as follows:

- Wetlands Protection District Overlay (WDO)
- Shoreland Protection District Overlay (SDO)
- Floodplain Management District Overlay (FDO)
- Groundwater Protection District Overlay (GDO)
- Wireless Communications Facilities Overlay (WCO)
- Highway Commercial District Overlay (HCO)

Purpose of the Edit

Two insert a previously unlisted overlay in this table (SDAO) and insert a newly created overlay district (SL-WMZO)

Edit as proposed to 1st hearing:

The designations for the overlay zoning districts are as follows:

- Wetlands Protection District Overlay (WDO)
- Shoreland Protection District Overlay (SDO)
- Floodplain Management District Overlay (FDO)
- Groundwater Protection District Overlay (GDO)
- Stratified Drift Aquifer Overlay (SDAO)
- Swains Lake – Water Management Zone Overlay (SL-WMZO)
- Wireless Communications Facilities Overlay (WCO)
- Highway Commercial District Overlay (HCO)

Narrative description of edit if appropriate

n/a

Commentary:

Public	None
Legal	None
Board	None

Disposition

Voted Recommend to Town Meeting as proposed.to 1st hearing

Ref #8: (Cnt 8) Location in the Ordinance At Article 12 Title Heading

Existing presentation

ARTICLE 12 - GROUNDWATER PROTECTION DISTRICT OVERLAY (GPO)

Purpose of the Edit

Support Acronym consistency in the Ordinance by matching with acronyms assigned in ZO 2.1

Edit as proposed to 1st hearing:

ARTICLE 12 - GROUNDWATER PROTECTION DISTRICT OVERLAY (GPDO)

Narrative description of edit if appropriate

Strike P in G P-O –and Insert GDO –

Commentary:

Public	None
Legal	None
Board	None

Disposition

Voted Recommend to Town Meeting as proposed.to 1st hearing

Ref# 9 (Count 9) : Location in the Ordinance at 12.2

Existing Presentation:

12.2 Groundwater Protection District Defined

The Groundwater Protection District consists of the entire area within the municipal boundaries of the town. However, there are specific portions of the town that have been identified as having the potential to yield higher quantities of groundwater. Therefore, the regulations presented in this Article are established to protect groundwater quality on a town-wide basis as well as within this specifically defined Stratified Drift Aquifer area.

Purpose of the Edit

To begin to formulate the narrative structure of there being a town wide overlay within which other overlays (2 in number) will be placed as set out in the revised presentation at ZO 2.1

Edit as presented to 1st hearing:

12.2 GROUNDWATER PROTECTION DISTRICT OVERLAY (GDO) DEFINED

The Groundwater Protection District Overlay (GDO) consists of the entire area within the municipal boundaries of the town. . ~~However, there are specific portions of the town that have been identified as having the potential to yield higher quantities of groundwater. Therefore, the regulations presented in this Article are established to protect groundwater quality on a town-wide basis as well as within this specifically defined Stratified Drift Aquifer area.~~ The provisions of this Article are intended to protect both groundwater supply quantity and water supply quality on a town wide basis.. There are specific overlay areas within GDO that have been identified as being of particular importance or concern and for which specific provisions are given within this article.

Narrative Description of the Edit as proposed if applicable.

To extend the portions of the town that are identified as needing specific attention with respect to water supply and expand the reasons for that identification to include quality as well as high potential yield.

Comment

Public	None
Legal	None
Board	None

Disposition:

Voted	Recommend to Town Meeting as proposed at 1 st hearing
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Ref #10: (Count 10) (Remove this header and text unchanged to a new location.)

12.2(1) Boundaries of the Stratified Drift Aquifer (SDA)
~~The boundaries of the Stratified Drift Aquifer (SDA) overlay areas are illustrated on the town's Official Zoning Map. The boundaries of the SDA are based on data developed by the United States Geological Survey, in cooperation with the New Hampshire Department of Environmental Services Water Division, as illustrated on the map entitled Drinking Water Resources and Potential Contamination Sources, Barrington, NH (October 2001).~~

Purpose of the Edit:

Delete header and provisions from this position and insert at 12.2.1(1)(a). This is a repositioning of text without change in the wording. This presents SDAO with its own indexed provisions for its definition and boundaries.

Edit as proposed at 1st hearing

Relocation only see reinsertion at

Comment

Public	None
Legal	None
Board	None

Disposition

Voted | Recommend to Town Meeting as proposed to 1st hearing

:

Ref # 11; 11a, 11b, 11c, 11d (Count 11,12,13,14,15): Insert new provisions as follows:

Existing Presentation:

None – This is a new provision

Purpose of the Edit:

To structure the presentation of the GDO as containing SDAO and SL-WMZO and identifying the overlays and their boundaries

Edit as presented at 1st hearing

AT 12.2.1 Identification and Boundaries of Overlays within the Groundwater Protection District.

At 12.2.1(1)The Stratified Drift Aquifer Overlay (SDAO)

The Stratified Drift Aquifer Overlay is identified as those areas having the potential to yield higher quantities of groundwater. (See further in Article 18: Definitions.)

At 12.2.1(1)(a) **BOUNDARIES OF THE STRATIFIED DRIFT AQUIFER Overlay (SDAO)**

The boundaries of the Stratified Drift Aquifer (SDAO) are illustrated on the town's Official Zoning Map. The boundaries of the SDAO are based on data developed by the United States Geological Survey, in cooperation with the New Hampshire Department of Environmental Services Water Division, as illustrated on the map entitled Drinking Water Resources and Potential Contamination Sources, Barrington, NH (October 2001)

.At 12.2.1(2) The Swains Lake Water Management Zone Overlay (SL-WMZO)

The Swains Lake Water Management Zone Overlay (SL-WMZO) is identified as that area where there is a risk of spreading a contamination of the water supply by increasing the number of wells within the SL-WMZO.

At 12.2.1(2)(a) **BOUNDARIES OF THE "SWAINS LAKE WATER MANAGEMENT ZONE OVERLAY" (SL-WMZO)**

The boundaries of the "Swains Lake Water Management Zone Overlay " (SL-WMZO) area are illustrated on the town's Official Zoning Map. The boundaries of the SL-WMZO are based on data developed in cooperation with the New Hampshire Department of Environmental Services Water Division, US Environmental Protection Agency, the Strafford Regional Planning Commission, and the Swains Lake Village Water District Board.

:

Narrative Description of the edit (if appropriate.)

n/a

Coment

Public	None
Legal	Should have consistent use of acronyms. (See 12.2.1(1) and 12.2.1(1)(a)).
Board	None

Edit as amended at the 1st hearing

Clerical edit of acronyms. "O" has been inserted and bolded in "as presented" section of this edit.

Disposition at 1st hearing:

Voted: Board Recommends adoption with "non-substantive" edits (consistent acronyms.)

Reg # 12 (Count 16): Paragraph within Section on “Applicability and Exemptions.

Esisting presentation:

12.3(2) All private residences are exempt from the provisions of this Article.

Purpose of the Edit

In order to protect the groundwater in the SL-WMZO it is necessary to include provisions that effect “private residences.” When Article 12 was drafted it was intended to apply to commercial uses of land. The reasoning being that uncontrolled commercial use threaten the groundwater sources with contamination whereas residential use would not.. Accordingly all “private residences” were exempted from the its provisions. This provisions removes the exemption of “private residences” within the SL-WMZO.

Edit as proposed at 1st hearing

**12.3(2) ~~All private residences are exempt from the provisions of this Article.~~
With the-exception of the private residences within the SL-WMZO, private residences are exempt from the provisions of this Article. (See Subsection 12.4.3).**

Narrative description of the edit (if appropriate)

n/a

Comments:

Public	None
Legal	None.
Board	None

Disposition at 1st hearing::

Voted Board recommends to Town Meeting as presented

Reg # 13: (Count: 17) Location in the Ordinance 12.4.3:

Existing Presentation:

None: New Provision

Purpose of the Edit:

To Establish performance standards for new overlay district.

Edit as proposed to 1st hearing

12.4.3 Performance Standards within Swains Lake Water Management Zone Overlay Boundaries

All land uses land uses located within the boundaries of the Zone Overlay SL-WMZO are subject to the performance standards and requirements applicable within the Base Zone. In addition, all land use located within any area defined as being in the intersection of any other overlay with the SL-WMZO shall comply with the performance standards and requirements of the base zone and each overlay zone represented in the area defined by such intersection. Nothing in this Ordinance shall prohibit a property owner from developing property within SL-WMZO

Narrative Description of Edit if appropriate.

None

Comments:

Public	None
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Legal	None.
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Board	None
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Disposition

Voted	Recommend to Town Meeting as presented to 1 st hearing
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Reg # 14: [Count 18] Location within the Ordinance: 12.4.3(1):

Existing Presentation:

None: New Provision

Purpose of the Edit:

Require any new development meet the water needs of that development from an off-site source or from the Swains Lake Village Water District (SLWD)

Edit as proposed to 1st hearing

Effective the date of adoption of the provisions of the Ordinance relating to the SL-WMZO, any provisions of this Ordinance notwithstanding, all future development within the SL-WMZO will be required to meet the water supply requirements of such development from a source located outside the SL-WMZO or through the Swains Lake Village Water District.

Narrative Description of Edit if appropriate.

n/a

Comments:

Public	Is this leading up to a requirement to hook up to SLVWD? Can I keep my existing well? What does this mean in regard to renovation and expansion of existing residences? Suggested an "umbrella" provision making clear the meaning of new development and repair and replace provision on wells.
Legal	None
Board	Mainly a colloquy focused on public's questions. (See 12.4.3 on repair and replace wells & See new 12.6 on renovation and expansion)

Disposition

Voted Recommend to Town Meeting as presented

Reg # 15: [Count 19] Location within the Ordinance: 12.4.3(2)

Existing Presentation:

None

Purpose of the Edit:

To provide for the maintenance of existing wells

Edit as proposed to 1st hearing

Wells existing as of the date of the adoption of the provisions of the Ordinance relating to the SL-WMZO will be permitted to be repaired and/or replaced provided such repair and replacement is consistent with the previously existing well capacity and use.

Narrative Description of Edit if appropriate.

n/a

Comments:

Public	Questions regarding uses – (Swimming Pools – etc)
Legal	Questions regarding “existing capacity and use.
Other	State Geologist: <i>Capacity if defined by the available water – so the capacity and use phrase could easily and reasonably replace by “is consistent with the previously existing residential use.” This would address the concerns raised about renovation and expansion in that if such were for “residential use.”</i>
Board	The phrasing refinement is “ <i>“is consistent with residential use.” This refinement address the observation of “legal review” and deals with some issues raised earlier re: renovation and expansion by inserting</i>

Edit as amended at 1st hearing

Wells existing as of the date of the adoption of the provisions of the Ordinance relating to the SL-WMZO will be permitted to be repaired and/or replaced provided such repair and replacement is consistent with the ~~previously existing well capacity and~~ previously permitted residential uses

Disposition

Voted Recommend to 2nd hearing as amended. (Substantive edit)

Ref # 16 (Count 20) New Provision - Insert as follows:t

Existing Presentation

None – New Provision

Purpose of Edit

To exempt authorized testing of water including expansion of extraction sites.

Edit proposed at 1st hearing

At 12.4.3(3) Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA),

The standards and restriction of this Article shall not apply to the activities of the US Environmental Protection Agency, the activities of the NH Department of Environment Services, and/or other parties authorized under CERCLA.

Comment:

Public	None
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Legal	None
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Board	None
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Disposition:

Voted	Recommend to Town Meeting as proposed to 1 st hearing.
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Ref # 17 (Count 21) New Provisions

Existing Presentation

None – new provision

Purpose of the Edit

Provide assurance that Property Development can continue.

Edit as proposed to the 1st hearing

At 12.6 PROPERTY DEVELOPMENT

Nothing in this Ordinance intends to or shall prohibit a property owner from developing property within the SL-WMZO:

12.6(1) From an existing well on property

12.6(2) From sources outside SL-WMZO, or;

12.6(3) From Swains Lake Water District System.

Comment

Public	Expand the header (provision title) to include renovation and expansion to cover the concerns expressed regarding renovation and expansion of existing structures in the overlay zone.
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Legal	None
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Board	None
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Edit as amended at the 1st hearing

At 12.6 PROPERTY DEVELOPMENT, RENOVATION AND EXPANSION

Nothing in this Ordinance intends to or shall prohibit a property owner from developing property within the SL-WMZO provided such development, renovation, or expansion meets the water supply needs of the development, renovation, or expansion from one of the following

12.6(1) From an existing well on property

12.6(2) From sources outside SL-WMZO, or;

12.6(3) From Swains Lake Water District System.

Disposition

Voted	Go Forward to 2 nd hearing as amended. (Substantive edit)
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Ref # 18 (Cnt 22) New Provisions

Amend Official Zoning Map as required to include the SL-WMZ Overlay

Recommend to Town Meeting – Required by RSA if map elements change.