



Meeting Minutes
Town of Barrington Planning Board
Public Hearing
(Approved on November 15, 2022)
November 1, 2022, at 6:30p.m.

1. CALL TO ORDER at 6:36 p.m.

2. ROLL CALL

Members Present: Andy Knapp, Ron Allard, Buddy Hackett, Bob Tessier, John Driscoll

Members Absent: Andy Melnikas, Donna Massucci, Joyce Cappiello

Staff Present: Town Planner: Vanessa Price, Code Enforcement: John Huckins, Planning & Land use Administrative Assistant: Barbara Irvine

Town Counsel: Laura Spector-Morgan

3. REVIEW AND APPROVAL OF MINUTES

A. Review and approve minutes of the October 25, 2022, meeting.

A motion was made by J. Driscoll and seconded by B. Tessier to approve the minutes of October 25, 2022, as written. The motion passed unanimously.

Roll Call:

J. Driscoll-Aye
B. Hackett-Aye
B. Tessier-Aye
R. Allard-Aye
A. Knapp-Aye

4. DISCUSSION WITH BOARD FOR A PRELIMINARY CONCEPTUAL SITE PLAN

A. Chris Berry from Berry Surveying & Engineering discussion with the Board for a preliminary conceptual site plan on Young Road.

A. Knapp gave a brief description of the application.

Chris Berry from Berry Surveying & Engineering represent applicant Paul Thibodeau (owner: Norma Bearden) for a 23 lot Conservation Subdivision on Young Road in the General Residential Zoning District. Chris explained to the Board that currently there was a fire cistern

installed across the street. Chris explained that he prepared a boundary survey for the project and Jack Hayes was the wetlands soil scientist for the project. Chris explained that the entire site was mapped for topography levels and soils. Chris explained that this site was adjacent to two large Town owned and Southeast Land Trust. Chris explained that they felt the best use for this property was a Conservation Subdivision. Chris explained that the ordinance requires that a yield plan was need for the subdivision process which determines the number of lots for the site. Then converted into an open space subdivision design. Chris explained that the first sheet in the preliminary set proposes most of the front lots that are because there was a large amount of homes. Chris explained was adequate amount of frontage and buildable area. The wetland wire and buffers to the site as well as the side and rear setbacks. Chris noted the following:

****Large wetland that was central to the property**

****Prime wetland in the center of that**

****Very important soils in the mapped area was defined in the preliminary plans are showing the buffer areas.**

****The 50' wetland setbacks and 100' prime wetlands buffer areas**

****Small wetland crossing for one of the proposed cul-de-sacs**

****No buffer impacts proposed as part of this project and there would be no 9.6 Permit**

****All the driveways would be shared some would have a apron for at least two lots and then they would branch out.**

****All the area adjacent to the conserved space would be part of the open space**

****Trail that works its way from Young Road on to conserved space of the subdivision would be design around the trail to keep it free**

****Driveway cuts for site profile of Young Road that looks flat on large scale**

****Young Road has some slopes and curves to it**

****Distance for each driveway was important they are working on analyzing**

****Applicant was working with the Fire Chief to determine if the previously installed cistern was adequate**

****They have undertaken test pits done on each of these proposed to lots within the divided 4,000 s.f.**

****Wells are on site would require a well radius easements**

****A variance would be required by the Zoning Board of Adjustment to prevent driveways within the front buffers**

****They may need a special exception for driveways not over lot frontages Lots 18,19,20 and 21 they are undetermined on how to approach driveways in those areas and how to reach those developable zones.**

****Lot 12 has slope in the back of the site with others would be more suitable pulled towards the roadway**

John Huckins explained to Chris that they would have another zoning issue for the 100' buffer being on the individual lots.

J. Driscoll asked how much relief they would be looking for lots 12 through 15 about 20' to 25'.

Chris stated yes. Chris explained that they would like to move the building envelopes 25' or so

and restrict the rear of the lot.

J. Driscoll questioned Lot 18 on the plan for the driveway access.

Chris explained they would propose that would be shared with Lots 18 and 19 with a private road or shared driveway.

A. Knapp explained that they would be sharing Lots 18, 19 and 20.

Chris explained that one of the appeals of some of the back lots provide roadway in their front one so they have looked at both and ganging up Lots 18 and 19 that would require shifting the lot line between lots 21 and 22.

J. Driscoll explained that he was looking at the 75' and on Lot 17 that say wetlands.

Chris stated yes.

A. Knapp asked about the shared driveway concept for Lots 15,16 and 17. A. Knapp expressed that was a lot of driveways popping out on to Young Road and that road was original from sight lines.

J. Driscoll expressed that he has never seen a pedestrian on Young Road.

Chris explained that Lots 16 and 17 could be another shared driveway and possibly Lot 15. Chris explained that the following could be shared.

Lots 9 and 10, 7 and 8, 5 and 6, 3 and 4
and explained that there would be a lot of front lots.

A. Knapp asked about the yield plan when he looked at it reference Lot 5 that strikes him as a little bit of a stretch because of so little frontage on it. A. Knapp explained that you're not really across the pond to get to the other side and the yield upfront was small.

Chris explained that the yield plan was part of the process moving forward they would have more detail than they are showing.

A. Knapp expressed that it just seems like a lot of lots crammed in there and when you start looking at some of the wetland crossings over the streams and trying to cross over the streams.

A. Knapp explained that it becomes almost viable.

J. Driscoll explained that it looks like a lot of uplands in the area that was going to the conserved area crossing and are you putting 4 lots there on the yield plan.

Chris stated yes. Chris explained that the yield plan was to determine the total and that the liability in this day in age and the regulations don't talk about liability along with the concern to financial standpoint.

R. Allard explained that you said all these lots would meet the requirements or 200' of frontage and ask if Lot 4 had 200' of frontage.

Chris explained that the Lot 4 was a back lot ordinance allows two back lots.

R. Allard asked about Lot 9.

Chris explained that Lot 9 has a building envelope that was big enough for the structure and well.

R. Allard expressed that was all that was there.

Chris explained that was the buildable envelope and the scale is half scale they are looking at.

J. Driscoll asked about the potential parking area adjacent to Lot 1. J. Driscoll asked if that was near the Goodwill parking area and would it be possible to put parking there.

Chris explained to the Board that the applicant in the project design was opening up gap's examples 20-4 and 20-5 so that 20-5 would have direct access to the open space so that so they are not required to have easements across people's property.

A. Knapp explained that he noted when he looked at 20-2, 20-5, 20-8, 20-17 all 20-20 up to was okay but they don't have access they don't have access to those conservation.

Chris explained that they would slide the lot line or create a gap so the open space would sort of wrap around and touch the back of each of those properties then would allow direct access.

R. Allard expressed that he would stick to the open space setting requirement was about 50%.

A. Knapp asked if they have talked about the traffic impact.

Chris explained they have not looked at it, yet it would be part of the scope to prepare an analysis. Chris explained that this was a major subdivision.

A. Knapp asked if they are going to maintain sight distance for driveway.

Chris stated yes. Chris explained that they have layout on paper how it was going to be.

J. Driscoll explained that something to turn around a lot.

R. Allard asked if there were 5 backlots.

Chris explained that they are not considered backlots they're the ordinance require that at the front building setback a lot has 75' so they are taking advantage of it's basically narrow 25'

Strips down the roadway with shared access similar to gain access to the buildable lot. Chris explained to the Board that this was just a preliminary review and would be back before the Board and looking for any feedback the Board has.

A. Knapp explained that his general sense there's a lot granted there and it's going to be a lot of activity with a lot of impact it's in that area. A. Knapp explained as a person that drives this every day, he said he knows how challenging it is going to be coming around there and any traffic or pedestrian. A. Knapp explained his concern was we're going to put a whole bunch of people in peril. A. Knapp explained that they would have to see when they come in with the sight lines and how it looks.

John Huckins explained that there was a requirement that it remained vegetated as a buffer in the regulations. John explained for the parking going out back so if parking was going to add parking in the front their lot should be brought up to the Zoning Board of Adjustment too because of the natural vegetative buffer the area of the parking they would have to take that away to accomplish that.

Chris stated yes.

Preliminary Review has been closed.

5. DESIGN REVIEW

1. [234-25.1-V-22-Design \(Owners: TSB Construction, LLC\)](#) Request by applicant for Design Review proposing a 3-lot subdivision two lots are backlots and one as a standard lot location off Franklin Pierce Highway on a on a 4-acre lot in the Village Zoning District. BY: Chris Berry, Berry Surveying & Engineering; 335 Second Crown Point Road; Barrington, NH 03825.

A. Knapp gave a brief description of the application.

Chris Berry from Berry Surveying & Engineering represented TSB Construction, LLC. Chris explained that they are before the Board for a Design Review for 3 new lots two would be back lots and one would be a standard lot off Franklin Pierce Highway (aka Route 9) they would take access off Franklin Pierce Highway. Chris explained that they went before the Zoning Board of Adjust for a variance to allow frontage of 150' that was granted on September 21, 2022, and for a Special Exception to allow a shared driveway for the 3-lot subdivision both were granted. Chris explained that there would be one duplex depending on the size. Chris explained that they were before the Board for 8 or 9 townhouses, but the zoning has since changed for less density. Chris explained that they have stormwater considerations to effect they've had stormwater detention but also treatment based in slope prior to discharge into the development and existing flow patterns. Chris explained that this project would go to town engineer CMA for review. Chris explained that this project requires a NHDOT Permit this has been started and was in process. Chris explained to the Board that there was an old road that cuts through the front of this project

They understand that was for rights of others that exist over this road, and they would be careful not to block that road.

Chris explained that there are steep slopes on site so again so the stormwater analysis this would be provided to the Board.

J. Driscoll asked about the house that would be at the top Lot 25.1 the driveway was 650' and 100' wide so there was room for a fire engine.

Chris explained that there would be a proper hammerhead design a 50' x 50' would be required to meet the regulations.

J. Driscoll asked about the drainage there was a 100' drop there.

Chris explained the other detention are further up slope.

J. Driscoll asked if they could fit them in the 100'.

Chris stated yes.

A. Knapp asked about 25.9 being a duplex.

John Huckins explained that they can do a duplex by right that has nothing to do with the regulations.

A. Knapp asked if this would still be a driveway because now there serving more residents.

John Huckins explained that it was changed in subdivision and John explained that this was changed in subdivision it used to say lots and was changed to dwellings. John explained that if they do the duplex that would be a private road coming in and if they did single families they would not need too.

A. Knapp asked about 25.1 which was in the front of the lot meets dimensional configuration of the general size but the dimensional and was questioning the conformity of the lot or not conforming lot.

Chris explained that the sides are 25' and believe that was 100'.

J. Driscoll asked about note #14 on Sheet #7 and asked if a AoT permit was required.

Chris stated that was not required.

J. Driscoll asked about the driveway running over to 25.9.

Chris explained that there would be a buffer between them. Chris explained that they driveway and lot are designed for that purpose.

A. Knapp opened public comment.

Paula Kent daughter of Thomas Kent from 757 Franklin Pierce Highway explained to the Board that looking at the plans they are much better than the last set. Paula explained to the Board that there was still going to be an impact on them was that driveway/road was running the entire length of there property. Paula explained to the Board that they would be affected by all sides of their property. Paula explained that their concerns were traffic, lights on the road and also cut of the Old Garrison Road which they actually do have property rights too. Paula explained that they also have concerns about there well and everything else. Paula explained that there was going to to be a road, cut down trees they already have a pool of water in their front yard when there was a lot of rain it goes across to the Pinzari property. Paula mentioned concerns when blasting what it would do to her foundation and concerns about mitigation and how was that going to where was all the stormwater going to go. Paula explained that they bought the house in 2017 and have had to replace the well and the previous owners had to replace the well twice. Paula was concerned on where the location of the septic tanks would be I relation to there property and there well. Paula sked what time of privacy for there existing home concerned about the road and multiple cars. Paula was concerned about the wildlife and concerned about a 200+ pine tree at the corn of this property and she was concerned that this tree would die because of this.

Gerald Pinzari from 746 Franklin Pierce Highway explained that his concerns were that he lives directly across the street from this property and was concerned about the drainage runoff with flooding due to the steep slope. Gerald explained that this property would make the flooding worse and what the was going to be done for the runoff and what the total footage and permeable surface would be with the driveways and parking areas. Gerald aske d what the percentage of lot coverage was and could the Board apply more stringent conditions. Gerald asked if NHDOT approved the curb cut.

A. Knapp closed public comment.

Chris explained the following:

Stormwater-they would be doing a stormwater analysis

Privacy-

Mitigation-This would be handled detention facilities and treatment facilities

Old Tree-Will consider the trees on the boundary lines and what impact if at all. They would talk about vegetation that would remain and or enhanced through buffering, may modify the driveway design to get the further from the boundary line.

NHDOT-They do not have the permit, yet this was the final planning process that takes place

R. Allard mentioned headlights as well.

Chris explained that this has been discussed on other projects.

A. Knapp asked if the septics were going to be raised beds because of all the legend.

Chris explained that there was no red length rock on site seasonal high water tables are actually pretty deep with good sand material and gravity material on site. Chris explained that due to the slope when they install there would be a slope that comes down but most of the beds would be either accurate or slightly lower. Chris explained to the Board that after the meeting he would check to see what type of well the abutter has whether dug or drilled well the difference in in the two of them and the type of water and the amount of water that they get.

Design Review has been closed.

Roll Call:

J. Driscoll-Aye
B. Hackett-Aye
B. Tessier-Aye
R. Allard-Aye
A. Knapp-Aye

6. ACTION ITEMS

A. APPEAL

239-1.1-TC-21-2Sub (Owners: David & Glenda Henderson) Request by applicant for a 2-Lot subdivision Lot 1.1 would be 11.81 and Lot 1.2 would be 17.19 acres (Map 239, Lot1.1) located off Franklin Pierce Highway in the Town Center (TC) Zoning District. BY: Dave Garvey, Garvey & Co Ltd; PO Box 935; Durham, NH 03824.

Owner requesting rescinding one-year extension and subdivision of parcel.

A. Knapp gave a brief description of the application.

V. Price explained to the chair that counsel stated that they did not have to be present.

A. Knapp read that the owners rescinded their requests for relocation on August 2, 2022, decision additionally revoking the approval of the extension and reinstating the July 19, 2023, deadline to satisfy that the conditions precedent and this based on zoning review RSA 676-4A for revocation and records approval allows for the request.

A motion was made by R. Allard and second by B. Tessier to approve the rescind their request and reinstate to July 19, 2023. The motion passed unanimously

Roll Call:

J. Driscoll-Aye
B. Hackett-Aye
B. Tessier-Aye
R. Allard-Aye
A. Knapp-Aye

B. REQUEST CONTINUANCE

1. **234-77-TC-22-SR (Owners: Paul & Linda Thibodeau Revocable Trust)** Request by

applicant proposing a Site Review for mixed-use detached structures consisting of 6 single-family homes with commercial spaces on the lower walk-out level with waivers (Map 234, Lot 77) located on Franklin Pierce Highway on a 3.42-acre site in the Town Center Zoning District. BY Christian Smith, Beals Associates PLLC; 70 Portsmouth Avenue, Suite 2; Stratham, NH 03885.

**Applicant submitted a request for continuance to the
December 6, 2022, Planning Board Meeting.**

A. Knapp read the letter from the applicant requesting to continue the applicant until December 6, 2022.

A motion was made by R. Allard and seconded by A. Knapp to continue the application for Map 234, Lot 77 mixed use site plan to December 6, 2022. The motion passed unanimously.

Roll Call:

J. Driscoll-Aye
B. Hackett-Aye
B. Tessier-Aye
R. Allard-Aye
A. Knapp-Aye

C. CONTINUED FROM OCTOBER 4, 2022

1. [269-11.1-RC-22-SR \(Owner: Heather Cooper\)](#) Request by applicant proposing a contractors' storage yard and a 9.6 special permit for construction in wetland buffer on a 1.86-acre site at 336 Old Concord Turnpike in the Regional Commercial Zoning District. BY: Stephen Haight PE, Civilworks New England; PO Box 1166; Dover, NH 03821.

A. Knapp gave a brief description of the application.

Steve Haight from Civilworks New England represented Heather Cooper-Cuccia Asphalt from 336 Old Concord Turnpike. Steve explained that they are before the Board that this was after the site walk we walked the property we talked about what was going on there as well. Steve explained that there was some staff comments as well as abutters comments. Steve explained that They laid out where the buffer zone was and right now they would like to get a conversation with the Planning Board.

R. Allard asked if they were before the Board for a storage yard because that was an allowed use.

John Huckins explained that was what they are there for and it has been used this way without site approval. John explained that because this being a violation and he has been trying to get them into compliance and told them they needed to get Site Review. John explained that they are before the Board to make what they are doing a legal use, so he doesn't have to tell them to get the trucks out of there because they didn't have site approval.

Steve explained to the Board that this was an allow use and they needed site review from the Town. Steve explained that they do have a Town driveway permit for the use of Warren Road.

Steve explained that they are using Old Concord Turnpike (aka Route 4) for their house and Warren Road for the business. Steve explained that they need site review and the impacts to the wetland buffers which was for a 9.6 Special Permit. Steve explained that they have had the contract storage yard for 15 years and never came in for a formal site approval.

A. Knapp explained that there are documents that this has been restored and all of a sudden, we have a regeneration of the problem. A. Knapp expressed that this shows the history of non-compliance about the regulations.

R. Allard expressed that if this was even retroactive this this was presented to us before hand he didn't know this.

John Huckins recommended that the Board go to Section 9.6.1 you can get the criteria for the 5 things to go through before you address it and address it to those criteria with.

Attorney Spector-Morgan explained to the Board that they need to look at this as if the violation was not there. Attorney Spector-Morgan explained that the Board needs to look at this before they did the work look at the criteria determine whether they have met the criteria if they are met you grant the 9.6 if not, they don't.

Steve read the 6 criteria:

1. The proposed use is in keeping with the intent and purposes set forth in the zoning ordinance as permitted in the base zoning district (See Table 1, Table of Uses, located in the zoning ordinance). If the base zoning district requires a conditional use permit or special exception for the proposed use, one must already have been obtained; or if the proposed use is not listed on the Table of Uses or is listed but not permitted, one must already have obtained a variance.

THE USE IS AN ALLOWED USE IN THE ZONE. THE BUSINESS HAS BEEN AT THE PROPERTY SINCE 2005.

2. After a review of all reasonable alternatives, it is determined to be infeasible to place the proposed structure or use outside of the buffer zone.

THE PARKING AREA IS AS FAR FROM THE WETLAND AS POSSIBLE AND IMPACTS THE LEAST AMOUNT OF BUFFER AS IS POSSIBLE.

3. The proposed structure or use must be set back as far as possible from the delineated edge of the wetland or surface water.

THE PARKING AREA IS SET AS FAR BACK FROM THE WETLAND AS IS POSSIBLE ON THE LOT.

4. Appropriate erosion control measures must be in place prior to and during construction.

THE PARKING AREA IS EXISTING. THE AREA IS WELL VEGETATED AND THERE IS A BERM BETWEEN THE EXISTING PARKING AREA AND THE WETLAND.

5. Any disturbance to the surrounding buffer zone must be repaired and restored upon completion of construction.

THERE IS NO DISTURBANCE PROPOSED WITH THIS APPLICATION.

6. All available mitigation measures to address changes in water quality and quantity be implemented, along with design and construction methods to minimize adverse impacts, if required by the Planning Board.

THERE IS NO LOT DISTURBANCE PROPOSED. THE PARKING AREA IS PAVED AND THE SURROUNDING AREA IS EITHER GRAVEL OR VEGETATED

A. Knapp expressed that when you look at the 9.6 Special Permit for Construction in the wetland buffer being that was not otherwise used. A. Knapp explained with the intent they already have a known disturbance there. A. Knapp explained that its hard to say yes when there's a known non-compliance.

Steve explained that they are before the Board for a Site Review proposal and explained that there was a well vegetated area. Seve explained that it was in a stable condition, and they do not plan on doing any work there.

Attorney Spector-Morgan explained to the Board that if the disturbance wasn't there and they were proposing to do that disturbance how did the criteria apply.

A. Knapp explained that was the reason why they had the site walk to look at it and if we went out there, we wouldn't see a giant berm wouldn't see the fill in.

J. Driscoll explained that this was fixed in 2016 and was acceptable.

Steve explained that the ordinance does allow disturbance in the buffer and its not a no disturb buffer you can put grass a 200' structure in the buffer. Steve explained to the Board that they are there for a Site Review for an allow use in zoning which they have not had since day one and the wetland application was part of what they are asking for.

R. Allard explained that they were operating before without approaching in the buffers and felt it was hard to meet that criteria.

Steve explained that he could agree accept they only have one truck they're a business.

John Huckins explained that in 2015 they took all there trucks out they were running a contractor's storage yard that was part of the violation and restored the wetland. John explained that there was when the buffer was restored. John explained that they stored their trucks at other sites they were not at this site.

Steve explained that they are running the business out of there home there would be a cost to store the trucks at another location. Steve explained that if they could get some relief to run their business out of there home.

A. Knapp read a case from another Town different than this case and stated just because they've grown doesn't mean that they get to violate the standard that creates a non-precedented.

Steve explained that was why they are before the Board.

A. Knapp expressed that the part he struggles with was they violated and now its back in for approval. A. Knapp expressed that he felt it doesn't meet the letter of the law.

Steve explained that they re not asking for relief they are asking for was for a contractor's storage yard.

A. Knapp stated they are asking for a 9.6 permit.

Attorney Spector-Morgan explained to the Board that if they feel the conditional use permit criteria are not meet because there's a specifically an alternative implications for that area you could find that criteria was not met and could deny the 9.6 permit.

A. Knapp asked why it was the Boards decision to provide an alternative to expand the use if their property.

Attorney Spector-Morgan explained that was not what the criteria said it says there's not a reasonably for the structure. Attorney Spector-Morgan explained that the paving in the ground or if there's somewhere else paving can o on site that would be reasonably alternative and deny it.

B. Hackett asked if there was somewhere else on the property for less impact.

John Huckins explained that they are right up to the property line.

Steve showed the Board with the buffer and showed that they were use on the property outside the buffer and would like to use the area in the buffer. Steve explained that if the buffer doesn't get approved, they have use of the property.

B. Hackett asked about the oil changes being done off the property they get fuel up off property.

B. Hackett asked about the cleaning at the end of the day the cleaning.

Tom Cuccia business owner just wash off at the end of the day no tar.

B. Hackett asked even if you use clear spring water on the motor vehicle something could impact the area and its not all paved and doesn't have catch base and could have some type of impact and was worried about contaminants off the vehicle.

Steve explained to the Board that there was no maintenance on the site done.

A. Knapp explained that the squail buffer but if you look at it contour wise everything runs up to the southeast of the property and dumps into the wetlands.

R. Allard explained that if they are asking for a 9.6 permit, they would need to justify and if you are asking for a contractor's storage yard and justify the space.

Steve asked Thomas how many trucks?

Thomas stated one was 8' x 24' and the other one was 8' x 24'. Thomas explained that these are the two main things. Thomas explained that the box truck was where they live on the front driveway.

Steve explained they would supply an as built with the following information:
On the as-built plan, provide a listing of vehicles. Listing complete with the vehicle description types and size that are to be stored on site.

Attorney Spector-Morgan asked the applicant if they were withdrawing the 9.6 Special Permit. Steve stated from what he was hearing the answer was yes. Steve outlined the following:

****Stay out of the buffer**

****Define the buffer**

****sign for the buffer**

****Restore the buffer**

****grass**

Steve explained that the 9.6 was withdrawn so they just before the Board for Site Review.

A. Knapp opened public comment.

Dan Ayer from 334 Old concord Turnpike explained to the Board that Tom has no respect for the event himself. Dan explained that he was done fighting with them. Dan explained that in the winter he has 2' of water in the front that doesn't drain before it was going into the buffer. Dan explained that the wetland was not functioning. Dan explained that he had no problem with the solution but for the reaction and reaction again. Dan explained the drainage backing up there was a court case the judge made it to move out the fence because nothing has changed the water flows that way to his property.

Steve explained to the Board that Mr. Ayer's property was higher than this property and the culvert that he was talking about was well over 50' from the common driveway was downhill from his driveway the condor was integrating was up to date. Steve explained for this to backup on his property it would need to be couple feet higher. Steve explained that all his drainage does come down across their driveway to the right.

A. Knapp asked about the culvert in the front and didn't know if that was filled in to be grass or how that worked. A. Knapp asked if when you come on the State, they keep a big drainage of soil there and the culverts are at the driveway intersection not usually farther up the yard.

Steve explained that thoughts are the responsibility of NHDOT to maintain them there was no culvert that goes under the common drive.

A. Knapp expressed that he thinks Mr. Ayer was saying that was backing up into the common driveway area the water wasn't shedding from there.

Steve explained that he contacted NHDOT and sent a letter with no concerns.

John Huckins explained that there was another one from NHDOT stating no curb cut needed.

Dan passed out pictures showing his concerns of his concerns for 16 years.

Missy Duyon from 22 Warren Road (Email was part of the record below) explained to the Board that they talked about putting up a fence, concerns are in the email also, concerned about the campers and trailers that in the buffer and doesn't want this approved. Missy asked if the pile of berm was going to be removed?

Yes, the berm pile would be removed.

John Huckins explained that the stuff in the buffer would be removed and the stuff that's out of the buffer was going to remain they're going to put stakes along the edge. John explained that they are going to do a best management practice in that area that was disturbed. John explained that they would put a swale that was grass so that any runoff comes down through stays into that swale to run towards the wetlands.

Missy asked about the buildings that are within the wetland buffer.

John Huckins explained that the buildings are under 200 s.f. are allow.

Missy asked about fencing.

John explained that was allowed under section 9.4.

Missy asked about the pool.

John explained that if it was over 24" high they would need a permit.

Missy so what the process.

John explained that they would need to remove the pool or get a permit to make it valid or go to Zoning Board.

Missy asked about everything else on the site.

John explained that they gave a list on what would be stored on the site.

Missy asked about the campers and trailers.

John stated that has nothing to do with a contractor's storage yard.

Missy stated so they could have what they want on this site.

John explained that this was a mixed-use lot. John asked if she would prefer a fence or not.

Missy stated that she needs more information and not a natural buffer because they cut down her Trees. Missy explained that she would want it remediated they took down trees it use to be a natural vegetated border.

John explained that they could cut to the edge of the property line.

Missy stated that they would want a fence to put up if this was approved.

Memo from Missy Duyon for the record:

Ms. Price,

I am writing to restate concerns my husband I have for the proposal for a contractors' storage yard and a 9.6 special permit for construction in the wetland buffer on at 336 Old Concord Turnpike submitted to Planning Board by Heather Cooper on property that abuts ours. In accordance with the town of Barrington's zoning ordinance we are asking that Ms. Cooper and her family:

Remove all structures from the wetland buffer.

Remove all fill; gravel, asphalt, waste wood, lawn and all other materials from the wetland buffer.

Require the site to be fully restored with the appropriate soil and planted with native vegetation and shrubs and trees.

Require a permanently maintained fence at the boundary of the upland and wetland buffer to prevent future buffer violations.

Require visually opaque and sound deadening and permanently maintained fence along the common boundary.

Further, on any lot that abuts a residential district (our home) that is developed for non-residential uses (their proposed storage yard), a buffer of at least 50 feet shall be maintained with sufficient vegetation to provide a visual screening between the uses in the adjoining residential district.

Our lot was created legally, and as such, is considered part of a residential district. A vegetative buffer of 50 feet is required between the property line and their commercial use. Additionally, ALL structures must be at least 30 feet from the property line.

With regard to the wetlands and wetlands buffer, Article 9, the Wetlands Protection Overlay's general purpose is to preserve and protect the wetland areas and their buffers in Barrington. Goals were outlined with the clear intent of preventing pollution of surface waters and groundwater, preventing the dewatering of wetlands, preventing adverse impact

to wetlands that prevent flood protection, augmentation of stream flow during dry periods, habitat for plants and fish and wildlife, etc. The proposed uses do not conform to the permitted uses, nor do the structures currently on the land. One of which appears to be for human habitation which is prohibited. Also, within any wetland buffer, no structure, impermeable surfaces, parking spaces, or construction related activities, including dredging, filling and regrading shall be permitted. To be very clear, pavement, gravel, waste materials and structures are prohibited within the wetland buffer.

Regarding the swimming pool: a prefabricated swimming pool that is less than 24 inches deep is allowed. The pool that is currently on the property is taller than 2 feet and therefore prohibited in the setback and wetland buffer.

The fence put up in the setback is permitted to be there, however, it is not permitted in the wetland buffer as it restricts the movement of native animal species relying on wetlands and their natural buffers.

Regarding Toxic or Hazardous Material: any substance or mixture with physical, chemical or infection characteristics posing significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water are prohibited in the wetland buffer. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, such as petroleum products.

Respectfully,

Missy Duyon

A. Knapp read conditions precedent:

"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.

RE: Request by applicant proposing a contractors' storage yard on a 1.86-acre site at 336 Old Concord Turnpike in the Regional Commercial Zoning District.

Owners: Heather Cooper
336 Old Concord Turnpike
Barrington, NH 03825

Applicant: Stephen Haight PE
Civilworks New England
PO Box 1166
Dover, NH 03821

Dear applicant:

This is to inform you that the Barrington Planning Board at its November 1, 2022, meeting **CONDITIONALLY APPROVED** your application referenced above. The approval for a Change of Use as a permitted use in the Regional Commercial Zoning District found in article 19 of the 2022 V1.7 Zoning Ordinance, Table of Use, to add Use for a Contractor's Storage & Equipment Yards.

The application has met all the Town's Ordinances and Regulations of the Town of Barrington.

All of the precedent and subsequent conditions below must be met by the applicant, at the expense of the applicant, prior to being certified by the Planning Board. Once these precedent conditions are met, the approval is considered final.

Please Note:

If all the precedent conditions are not met within 12 calendar months to the day, the November 1, 2023, Board's approval will be considered to have lapsed, unless a mutually agreeable extension has been granted by the Board.

Conditions Precedent:

1. Remediation/restoration plan for the wetland buffer restoration.
2. Installation of signage on the sign buffer on that will restore the buffer and put a stormwater B.M.P.
3. Signage to be located 25 feet on center along the buffer and the impact of the area.
4. Reestablish the 30 ft. driveway off of Warren Road to the to the approved driveway permit.
5. Install 6ft high opaque fence along the property line; between the owner and the abutter, Duyon, on north property boundary.

Conditions Subsequent:

1. The approved hours of operation are Monday through Friday from 6:00AM – 6:00PM. (Business not in operation November to April.)
2. Engineer will provide as-built to demonstrate work was completed to show work was done for the conditions precedent.
3. On the as-built plan, provide a listing of vehicles. Listing complete with the vehicle description types and size that are to be stored on site.

Any changes to the site used for the operation of the business will require reapplication and review by the Planning Board.

I wish you the best of luck with your project. If you have any questions or concerns, please don't hesitate to contact me.

Sincerely,

Vanessa Price
Town Planner
cc: File

A motion was made by A. Knapp and seconded by R. Allard to approve the Site Review for Heather Cooper-Cuccia Asphalt located at 336 Old Concord Turnpike. The motion passed unanimously.

Roll Call:

J. Driscoll-Aye
B. Hackett-Aye
B. Tessier-Aye
R. Allard-Aye

A. Knapp-Aye

D. NEW APPLICATIONS

1. [238-2TC-22-SR \(Owner: Elfmade Property, LLC\)](#) Request by applicant proposing a site review to add storage units with an 8' feet around the units at 603 Franklin Pierce Highway and waivers on a .64-acre lot in the Town Center Zoning District.

A. Knapp gave a brief description of this application and then recused himself from this application.

R. Allard acting chair for this application.

Robert Huffman owner of Elfmade Properties LLC explained that he was before the Board proposing to put 5 storage units across from the business on property that he owns at 603 Franklin Pierce Highway for his business. Robert read the conditions and they were ok with him and asked how much more detail they would want.

R. Allard explained that this was in the Town Center and that self-storage was not permitted in this zoning district. R. Allard asked does this fit in the Town Center.

John Huckins explained that he looked at this because they had an existing business there, he looked at it as because it was across the street.

R. Allard explained that self-storage was not allow in the Town Center this seems to him to be a storage activity. R. Allard explained that if this was not conditional than this was not allow in the Town Center.

John Huckins explained that he looks at this a part of his business use you can't have if you just have to shop on the shelves and nothing else to buy. John explained that he looked at this as part of the business use to sell.

Attorney Spector-Morgan asked if he was saying that this was an accessory to the retail sales of the business.

Robert explained that this was store inventory for the business.

Attorney Spector-Morgan explained that normally that would be on the same lot but it does not have to be.

R. Allard explained that a retail operation that has inventory he kind of thought that the inventory would be in the back room. R. Allard explained that he wouldn't think that the inventory would be in storge units in a parking lot.

J. Driscoll expressed to a door not going across the street and this makes it self-storage.

B. Hackett expressed that he didn't think that this was uncommon for storage containers.

R. Allard explained that if this was in places where its allowed, but it's not allowed and all this is was storage. R. Allard explained that this was on a different lot and felt this lot was storage units.

B. Hackett expressed that this was not storage this was inventory for the business.

B. Tessier explained to him this was an accessory to their business.

R. Allard expressed that this was storage and it's not allowed in the Town Center for the intent of the regulations.

John Huckins explained to the Board that they came before the Board to get direction on what to do and knows that it was non-binding. John expressed that they came before the Board for direction and what the state constitution says what you are supposed to do with an applicant. John explained to the Board that by the zoning they would be able to have registered trailers there or structures under 200 s.f. that are allow my the zoning.

R. Allard expressed that was this allow in this zoning district and explained that this does not fit in any of the categories.

Robert explained that he could fill this or do what he agreed to with the Board to have the 5 containers with a fence around it. Robert explained that they have to buy the inventory to get the price that they get he doesn't want containers he would like to build a building but can't do that right now.

Attorney Spector-Morgan explained that John Huckins looked at this as permitted as an accessory to the retail. Attorney Spector-Morgan explained that they need to make the decision first would be whether or not it's a permitted use.

John Huckins explained sometimes things are not black and white this was the gray area.

B. Hackett explained that if they are going to put a fence around it going to look better and cleaner than the alternative.

J. Driscoll explained that you would see the top of the containers.

John Huckins explained that you would not see the top of the containers that the discussion was sitting in vehicle at the five foot of height and your looking 10' off the road it would be 12' to 14' in the air.

Robert explained that the front would be 20' from the containers so you would not see the containers you may see a little from the side explained the angle driving by you would not see the containers.

A motion was made by R. Allard and seconded by B. Hackett to accept the application for Elfmade as complete. The motion passed unanimously

Roll Call:

J. Driscoll-Aye
B. Hackett-Aye
B. Tessier-Aye
R. Allard-Aye
A. Knapp-Aye

R. Allard opened public comment.

Dan Ayer 334 Old Concord Turnpike stated that the Board had a tough decision to make like other cases in Town.

James Jennison from 18 Cate Road he would like to speak against this and explained that this was not permitted in the Town Center and this would require a 3.4 Conditional Use permit. James expressed that the same language was used as other cases and someday would build a building. James explained that once permitted it would be permanent, they do not have to pull the containers. Jamie expressed that 200 s.f. they could put as many as they want that would require site review.

R. Allard closed public comment.

J. Driscoll asked if on the plan are thoughts utility trailers was the trailer going?

Robert explained that the trailer would be going.

John Huckins read to the Board what a structure was below:

Structure (3/8/2010) Anything constructed, installed, placed or erected, whether above or below grade. Unless otherwise stated in this Ordinance, the following structures are exempt from the building permit requirements set forth in Section 15.4.1 and shall not be construed as structures for purposes of setback requirements but shall be so construed for all other purposes. Sheds may require an Administrative Zoning Permit, see Article 9.4.5.

Requested Waiver:

Section 3.1.1 from the Site Review the requirement to have all site plans shall be prepared and stamped by a professional engineer. Boundary monuments shall be certified by a licensed surveyor of the Site Plan Review Regulations.

A motion was made by R. Allard and seconded by B. Tessier to grant the waiver section 3.1.1 for requirement to have plans not granting the waiver would pose an unnecessary hardship to the applicant and granting the waiver would not be contrary to the spirit and intent of the regulations. The motion passed unanimously

Roll Call:

J. Driscoll-Aye
B. Hackett-Aye

B. Tessier-Aye
R. Allard-Aye

R. Allard We have an application and I'm going to read the Condition Precedent.

R. Allard read the Conditions Precedent from DRAFT Notice of Decision:

Conditions Precedent:

1. Privacy eight foot (8') fence to be installed along Route 9 to secure the five storage units.
2. No more than five (5) 40' Containers shall be onsite.
3. Need to apply for a NHDOT driveway permit.
4. No access shall be blocked for trail user's exiting the trail on foot could walk to Rt.9, in front of Calef's.

Any changes to the site used for the operation of the business will require reapplication and review by the Planning Board.

A motion was made R. Allard and seconded by B. Hackett to approve the site plan application. Vote was 2/2. A motion to approve the site plan failed by a vote of 2 to 2.

Roll Call:

J. Driscoll-Nay
B. Hackett-Aye
B. Tessier-Aye
R. Allard-Nay

A motion was made by R. Allard and seconded by J. Driscoll to deny the Site Review because not in the Town Center. A motion to approve the site plan failed by a vote of 2 to 2

Roll Call:

J. Driscoll-Nay
B. Hackett-Aye
B. Tessier-Aye
R. Allard-Nay

John Huckins explained that they would need to go to the Zoning Board of Adjustment for relief.

A. Knapp returned to the Board.

2. [260-13&14-GR-22-2lot/LL \(Owners: Christine & Wayne Richard, Tr of Richard Family Tr\)](#) Request by applicant proposing a Lot line Adjustment between Lots 13 & 14 and create one new lot on Hemlock Lane and Partridge Drive on a 40.8+/- acres in the General Residential Zoning District. BY: Joel Runnals, Norway Plains Associates, Inc. PO Box 249; Rochester, NH 03866-0249

A. Knapp gave a brief description of the application.

Most of this was written by Joel Runnals for the Boards FYI:

Joel Runnals Norway Plains Associates, Inc. from represent the applicants Christine & Wayne Richard for a lot line adjustment and a subdivision for tax map 260, Lots 13 & 14 located at Hemlock Lane and Lot 13.1 on Hemlock Lane. Joel explained to the Board that he believed that this should be taken care of before the application can proceed. I also believe that rescinding the handwritten conditions on the plan should not be based on the proposed application. Joel explained that with my experience of being on the planning board and working with planning, I have come across a few of these Barrington plans that have handwritten notes and or conditions of approval associated with them. Also, with my experience and working with former Town employees, I know that sometimes the planning board, back in the day, would strong arm applicants with forcing them to accept the conditions if they wanted to be given approval.

Town had gotten legal advice on how they should be handled. The advice was always that it was illegal for the planning boards to require conditions such as 10 acre lots where the 80,000 square foot lot size was the lot size and that no further subdivisions of the lots. If any proposed lot could meet the Town's subdivision regulations and zoning ordinances, then these conditions could be ignored.

Present legal advice is different from the earlier advice, so we request that this Board rescind the conditions and covenants that were placed on the 1981 plan.

Of the total 10 lots on the 1981 subdivision only four lots were conveyed with the deed stating, "no further subdivision is allowed." They are lots 3, 4, 6 and 7 also known as Tax Map 260, Lots 13, 14, 16 and 17. The owners of these four lots have signed an "agreement to remove restrictions" which will be recorded at the registry of deeds.

Attorney Spector-Morgan explained to Joel that this Planning Board worried about the infrastructure and not their jurisdiction was the condition of approval. Attorney Spector-Morgan asked if part of there application you're asking them to rescind the condition of approval which they can certainly do if their reasons for a conditional of approval. Attorney Spector-Morgan explained that she doesn't know why its on the plans or what the circumstances were at that time.

Joel explained that these conditions that the Board used to demand pf the applicant's were determined by previous legal counsel to be illegal and if the lots met current zoning and subdivision requirements could be ignored.

Attorney Spector-Morgan explained that they need to convince the Board that something has changed That justifies the condition of approval.

Joel explained that it hasn't changed it its always has been a two lot they are the same completed environment.

Attorney Spector-Morgan explained that if the condition were approval were just imposed for no valid reason then it should be removed. Attorney Spector-Morgan explained that there has been no evidence as why this was imposed in the first place and if anything has changed.

Joel explained that he has been asking for months now to the direction on how to take care of this And now I am told that I should have brought information. Joel explained to the Board that there was no reason why in 1981 for this to be on the plan. Joel expressed that he sees no reason why it could not be subdivided.

J. Driscoll asked about the letter from the attorney said it's apparent known as it was three, four, six and seven. J. Driscoll explained that three informing was subject too.

Joel explained that the majority of the lots the two lots couldn't just do it on the lots.

Attorney Spector-Morgan explained that that you can ignore this definitely difficulty.

Joel explained that he brought that up because an abutter was concerned with that being on some of the deeds. Joel explained that he could subdivide these lots and couldn't see why they couldn't do this. Joel explained that these conditions were put on some reason or whatever it was at the time.

John Huckins asked Joel if he asked to continue this application and come in the office we can try and find the minutes when this all happened. John explained then you would have the information to present this case to the Board.

Joel expressed that he suspects there's not going to be much information from back then.

John Huckins explained to the Board that this was a standard practice back then and explained that he did a subdivision back in the 80's and they put that condition on it every single subdivision at the time said that.

Joel explained that the deed restriction was only on four lots.

Attorney Spector-Morgan explained that if they agreed its binding condition.

Joel explained that they could meet all the Town requirements for this and prove that this can be subdivided. Joel explained that he was asking the Board to rescind because he could meet today's regulations.

A. Knapp asked that anyone could come to the Planning Board and ask for something to be deleted off the Plan.

John Huckins explained to the Board that if this was a condition by the Planning Board you would need to agree to it if it was just something put in the deed you would to have ignore it.

Attorney Spector-Morgan explained to the Board regardless of the deed restriction the approval applies to all the lots.

Joel explained that he would come back next month and prove that he can do something with this lot.

Attorney Spector-Morgan asked if the plan was recorded.

Wayne stated that the plan was recorded. Wayne explained to the Board that some of the owners stated that this was not on their deed. Wayne explained that six of the deeds had nothing on them. Wayne explained that there was an issue because why would the six be different from the other four.

John Huckins explained that the issue was that the attorney didn't pick it up on all the lots. John explained that has nothing to do with the Planning Board approval it has to do with the attorney that wrote the deed.

A motion was made by A. Knapp and seconded by J. Driscoll to accept the application for Hemlock Lane and Partridge Drive as complete. The motion passed unanimously

Roll Call:

J. Driscoll-Yay
B. Hackett-Yay
B. Tessier-Yay
R. Allard-Yay
A. Knapp-Yay

Joel reason for the subdivision and lot line:

Now the Lot Line Revision and Subdivision.

The Richards are proposing a lot line adjustment with their two lots, Tax Map 260, Lots 13 and 14 and to create one additional lot, 13-1.

Lot 14 is a vacant lot and is currently 5.04 acres and it will become 2.36 acres.

Lot 13 is also called 5 Partridge Drive and is where Christine and Wayne have lived since 1983. Currently this Lot is 5.06 acres and will become 2.95 acres.

By reducing the sizes of Lots 13 and 14 we are creating an additional lot called 13-1.

Lot 13-1 will be 4.79 acres.

When the lots were originally created in 1981, they did not require NHDES subdivision approval because they were greater than 5 acres.

All three Lots will now be under five acres and will require NHDES subdivision approval.

Lot 13 having been developed, has an existing septic system and well. We are showing a 4,000 square foot area for a potential effluent disposal area with two test pits.

Lot 14 also has two test pits in the 4,000 square foot effluent area and a potential well location.

The new lot, Lot 13-1 has two test pits in the 4,000 square foot effluent area and a potential well location.

The only wetlands that were delineated by Wetland Scientist, Joseph Noel are located on Lot 13.

During Mr. Noel's wetland delineation, he discovered a vernal pool. We do understand Barrington's Wetland Ordinance and that it says, "if a vernal pool is determined to be located on a site, a greater buffer may be required by the Planning Board."

I don't believe that is necessary and the test pits are approximately 340' away from the vernal pool.

Partridge Drive is paved and is a class 5 Town Road.

Hemlock Lane is a gravel, private road and is maintained by the Al Wood Drive Road Association. Before 911, Al Wood Drive was the original name of Hemlock Lane.

We have included in our application packet, a letter from the Association which addresses their maintenance schedule as well as requiring the new lot to become part of the Association.

I am very aware of the Town's concerns with private roads in Barrington. I have worked on many of them and they all receive different levels of maintenance. When I was on the planning board, we were the first to try to address private roads.

I live on a gravel Class 5 Town Road. The Highway Department does a good job and has a maintenance schedule that they do several times a year. I have seen Hemlock Lane and know of their maintenance procedures. The Chairman drives daily on the road and does constant maintenance to keep the condition in excellent shape.

We are also aware of the rules for subdividing and building on a private road and that is why we came to the board this past summer to address the procedure.

The Town's Road Agent, Marc Moreau, met us on site back in July of this year and before we came to the planning board. He gave us his assessment of Hemlock Lane and some recommendations. He looked at the areas between the entrance on Merry Hill Road down to the proposed driveway on Lot 13-1 which will be about 200' east of the proposed lot line.

Marc suggested that a couple areas be regraded to meet the 20-foot-wide fire safety rule. Since then, these have been graded.

Because the new driveway and construction is on a private road, I don't think a Town driveway application is required. The Al Wood Road Association will be reviewing the driveway design and if the Board would like the Road Agent could review it as well.

A. Knapp asked if the Select Board has weighed in on this because they are the approvers on Class VI Road.

John Huckins explained to the Board that they had a conditions like the Board did on another one that they comply with the Select Board policy.

Attorney Spector-Morgan explained because that the Board could apply to their conditions that they think are appropriate. Attorney Spector-Morgan explained that because of 674.41 the Planning Board could have conditions and decide if it was built to appropriate standards if not its Part of the subdivision the Board decides on the upgrades.

Attorney Spector-Morgan read what the Frontage said in the ordinance see below:

Frontage the length of a lot line of abutting a class 5 highway or other road upon which buildings may be built but a private road is a road where buildings may be built lawfully.

So, no variance needed.

Break for the Board to meet with the attorney.

A motion was made by R. Allard and seconded by A. Knapp to continue the application for Mr. and Mrs. Richard to December 6, 2022. The motion passed unanimously

Roll Call:

J. Driscoll-Yay

B. Hackett-Yay
B. Tessier-Yay
R. Allard-Yay
A. Knapp-Yay

A. Knapp opened public comment.

Chris Carr explained that he owns land on Hemlock Lane this request is not just a Lot line Adjustment or a Subdivision it's a proposal to redefine the Hemlock Lane Community. Chris explained that this Board was being asked to rescind restrictions that were executed by agreeable parties and Mr. Richard signed that he would not subdivide his property. Chris explained that these restrictions were put in by the Town of Barrington back in the 1980's this benefited the landowners to protect neighbors for further subdivisions. Chris explained the different subdivisions on the plan. Chris gave the Board copies of the deeds.

7. PRIVATE ROADS

A. Review of a request for a building permit for 175 Brooks Road Category 3 on Class VI/Private Road. ([Map 211, Lot 2](#))

The Board agreed to send the staff recommendations to the Select Board.

A motion was made by A. Knapp and seconded by R. Allard to send the recommendation to the Select Board. The motion passed unanimously

Roll Call:

J. Driscoll-Yay
B. Hackett-Yay
B. Tessier-Yay
R. Allard-Yay
A. Knapp-Yay

8. OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

9. ADJOURN

A. Adjourn the Planning Board Meeting. The next Planning Board meeting is a Work Session on November 15, 2022, at 6:30 PM.

A motion was made by A. Knapp and seconded by J. Driscoll to adjourn the meeting at 10:50 p.m. The motion passed unanimously

Roll Call:

B. Hackett-Yay
J. Driscoll-Yay
B. Tessier-Yay
R. Allard-Yay
A. Knapp-Yay

**** Please note that all votes that are taken during this meeting shall be done by Roll call vote. ****