



BARRINGTON PLANNING BOARD MEETING

NEW LOCATION: EARLY CHILDHOOD LEARNING CENTER

77 RAMSDELL LANE

Barrington, NH 03825

Tuesday January 16, 2018

6:30 p.m.

MEETING MINUTES

Members Present

Fred Nichols, Chair

James Jennison, Vice Chair

Jeff Brann

Steve Diamond

Donna Massucci

Members Absent

Casey O'Brien – ex-officio

Richard Spinale

Alternate Member Present

Dan Ayer-ex-officio

Town Planner: Marcia Gasses

Zoning Administrator/Code Enforcement Officer: John Huckins

SECOND PUBLIC HEARING FOR ZONING AMENDMENTS

Pursuant to NH RSA 674:16; 675:3 and 675:7 notice is hereby given of a public hearing to be held by the Town of Barrington Planning Board for the purpose of discussing proposed amendments to the Zoning Ordinance.

Item #1 – To address word changes made at the 12/19/2017 public hearing to Section 4.1.3(1), Back Lots to clarify backlot(s) must collectively have at least fifty (50) feet of frontage on an existing Class V or better road or an existing or new road built to the standards of the Barrington Subdivision Regulations.

F. Nichols explained that the Board had made changes at the first hearing and they were now having a second hearing on the amendment.

M. Gasses explained that the changes that had been made at the 1st hearing were to add the word “collectively” as well as, “an existing or new” on the recommendation of the Town’s attorney. The existing 4.1.3(1) read, “The parcel must have at least fifty (50) feet of frontage on an existing Class V or better road.” The original proposal was to add, “*or a road built to the standards of the Barrington Subdivision Regulations*”. M. Gasses understanding was that Class V had been interpreted to be a built to standard and Class V is actually a road maintained by the Town.

The amendment proposed read, “The ~~backlot(s) parcel~~ must *collectively* have at least fifty (50) feet of frontage on an existing Class V or better road *or an existing or new-road built to the standards of the Barrington Subdivision Regulations*.”

S. Diamond expressed the amendment adding the word “collectively” changes it so that each lot does not need 50’.

M. Gasses explained that currently only 50’ is required with each lot requiring 25’, with a shared driveway down the center to the two lots. The proposal would not reduce the 50’ required for a single lot.

J. Jennison expressed that he thought they were removing the Class V or better road and just having “or a road built to the Barrington Subdivision regulations”.

M. Gasses expressed that they hadn’t wanted to eliminate Class V or better road, which is a maintenance level, but to not limit it to just roads maintained by the Town. A new road built to Town Standards is not a Class V road until it is maintained by the Town. Class V or better does not take away from the amendment.

J. Brann expressed a Class V road could also not be built to the Subdivision Standards, but this continued to allow for backlots on a Town maintained road. It grandfathered roads that might not meet the standard.

S. Diamond expressed that the amendment was written for clarification, because the Board had not been interpreting the regulation the way the language was written.

F. Nichols opened the public hearing.

S. Jeffery of France Road asked to have a letter attached to the minutes. He believed the amendment was poorly written and concerned it could be exploited by a crafty developer.

F. Nichols closed public comment.

F. Nichols asked if there was concern that there could be eight backlots created in a subdivision.

J. Brann expressed both the Subdivision Regulations and the Zoning Ordinance limits backlots to two.

S. Diamond asked if a person had a large parcel and did multiple subdivisions could they end up with multiple back lots.

J. Jennison expressed that they likely could.

J. Brann expressed that only two lots would be allowed per back lot subdivision.

M. Gasses explained that if more than two lots used the 50' for access, the third lot would need to have frontage on the road.

A motion was made by J. Jennison and seconded by J. Brann to move the amendment to the warrant.

S. Diamond believed that it would be better to exercise the full subdivision processes because there were regulations in place to see correct infrastructure was built.

Roll Call

S. Diamond	nay
D. Ayer	aye
J. Jennison	aye
J. Brann	aye
D. Massucci	aye
F. Nichols	aye

The motion carried by a vote of 5-1

Item #2 - To **amend** Article 18 Definitions to revise the definition of Street to clarify what is included within the term.

F. Nichols read the exiting definition of "Street", "A road, thoroughfare or way that affords the means of access to adjacent lots and is devoted to vehicular travel, and measured from property line to property line. It includes any street, avenue, road, land, viaduct, boulevard, alley highway or other way, whether public or private. He continued with the proposed amendment that would add, "*It includes a street shown on a plat duly filed and recorded at the Strafford County Registry of Deeds prior to the authority of the Planning Board to approve subdivisions; includes the land between street lines, whether improved or not.*"

S. Diamond expressed that relevant definitions exist in the Site and Subdivision Regulations and State law that he felt were much more synched.

M. Gasses expressed that one of the things the Board needed to work on in the coming year was to make sure the definitions in the Site and Subdivision Regulations were consistent with the Zoning Ordinance.

S. Diamond expressed he was wondering the history of the language and was there a real concern. He asked if M. Gasses had brought this to the attorney.

M. Gasses expressed that the amendment had been brought to the Board by the Town's attorney; it was not something the Town Planner had suggested. The Town's attorney wanted to clarify the definition of street for purpose of clarifying where we measure setbacks from. The attorney's recommendation for clarification purposes was based upon years of conversations they had had over different issues. The specific conversations with the Towns Attorney were protected and she could not speak to specific conversations.

F. Nichols opened public comment.

S. Jeffery of France Road expressed the language was broad. He asked that his written comments be attached to the minutes. He asked that they strike whether public or private from the amendment and just leave it to public ways. He believed the definition incorrectly called certain easements and ways streets. Mr. Jeffery showed an old subdivision plan that was not approved by the Planning Board. Mr. Jeffery was concerned with roads shown on plats that were not roads approved by the Planning Board. He wanted it noted that the map labeled as "Official Town Map" was not adopted or recorded as an official Town map. Mr. Jeffery was also concerned with the term "other official action". The definition even included, "or shown on a plat duly filed and recorded at the Strafford County registry of Deeds prior to the authority of the Planning Board to approve subdivisions." He did not believe you could make every one of those defunct plans a street now for whatever purpose someone believed they could use it for. He wanted to know if a street wasn't built, why it was being called a street. Mr. Jeffery showed the plan for Mendum's Landing and questioned whether anyone would call them streets for their use. He referenced a lot located off Young Road and also referenced a State plan that had the westbound lane of Route 4 in F. Nichols lot. He expressed that the Board needed to be careful that the regulations were not written too broad.

Marie Daniels of Mendum's Landing asked why the information from the attorney couldn't be shared.

M. Gasses explained the amendment was the Town Attorney's recommendation based upon conversations on different parcels over the years. If specific parcels were mentioned in conversations with the Town's Attorney those specific discussions could not be shared with the public under the law, they were protected under attorney client privilege. She believed S. Diamond was inquiring into conversations about specific cases. The Town had 160 private roads.

S. Diamond expressed he was looking for an abstract and wondered how much time M. Gasses had put in looking into this.

M. Gasses expressed this was something the Town's Attorney had brought forward based upon years of conversations; she (M. Gasses) had not put time into this.

J. Jennison expressed that every amendment is not a way for developers to backdoor development and he does not look at the proposals that way.

D. Ayer expressed there were 160 private roads in this Town and the Board was trying to clarify what was meant by a street. The clarity would help both individuals as well as professionals when they were preparing plans. If property owners got together and upgraded their private road they could petition the selectmen to have their road accepted by the Town. He believed everyone was looking at the negative and there was positive here.

S. Diamond referred to a couple of articles put out by the municipal association that expressed that paper streets could possibly open up the Town to responsibility for maintenance of roads they are not ready to maintain and costly litigation.

Pat Morse of Cannan Back Road asked who the attorney was and who the client was.

M. Gasses expressed the attorney works for the Town. The staff had conversations with the attorney over years when different questions about private roads came up, and the attorney brought this amendment to the Board based on the questions and conversations over the years. She expressed there was no specific conversation she could attribute the amendment to. Over the years there had been questions about building permits on private roads and about setbacks; there were also a lot of lots on private roads along the lakes and consistently surveyors had measured the setback from the edge of the right of way.

F. Nichols explained the Town's attorney recommended that the Board put the amendment in to clarify the definition of street, based upon different situations that we had that a clarification and a more detailed definition would be a good thing to have. There was nothing privileged about the reason for proposing the amendment.

Pat Morse asked why M. Gasses claimed there was privileged information.

M. Gasses explained that she only said that because she felt she was being pressured to talk about specific conversations she had had with the attorney about specific cases and names, and she could not do that.

J. Brann expressed his understanding of this was that the amendment was based upon a compilation of questions and that had come up over the years, and answers that had been given over a period of time. The attorney felt this would be helpful based upon those questions and answers.

J. Huckins, Zoning Administrator and Code Enforcement Officer explained the book *A Hard Road to Travel* was a book put out by the Municipal Association that dealt with a number of road issues, because many communities had issues not just Barrington. The Town's attorney worked with many communities, not just Barrington, and he believed this amendment was also based upon issues the attorney was seeing in other towns.

D. Ayer expressed the Town's Attorney had to defend it.

Diane Freedmen Holiday Lake Shore Drive asked what accrues to something that designated a street; would the Town be responsible for accidents that occurred on it. She did not understand what precipitated this. She wanted to know what was at stake.

S. Diamond expressed a lot of money. A lot that had access to a road could be worth a million dollars while a lot that didn't would be worth \$100,000.

J. Jennison expressed that if that was your property wouldn't you want it to be worth a million dollars.

Karen Gould explained she owned a 130 acre lot on a private road off a public road. She had been renovating a structure at 319 Holiday Lake Shore Drive and had been given verbal permission to build a garage forty feet from her property line. An abutter had initiated a law suit against her in Superior Court and the judge had determined he could only gain access from a right of way or private easement on her property, but not utilities. The permit after the court decision was required to be 40' from the easement, which is a right of way and made the building now a 100' from her property line. Ms. Gould expressed that the building official is required to defend their decision and she had an attorney call the Town's attorney who had expressed that since she had a permit the issue was a moot point. She wanted a written reason for the denial of the building permit, by not getting a written reason on what zoning ordinance did not allow for the location of her garage she could not appeal to the ZBA. She believed the private easement to her abutter could be exploited by what was being proposed.

Karen Gould explained her land was going to be put in conservation and abuts other land that was in conservation. The land contained a considerable amount of wetlands and water. Barrington contained a huge corridor of water, unlike other areas of the country. The water in Barrington was feeding dozens of communities. She was concerned because her private easement could not become a road. She asked that the document she prepared be attached to the minutes.

Beth Olshansky of Hemlock Lane suggested the Town adopt the definition under the State 672:13. She believed what was suggested by the attorney broadens the definition and includes rights of way that were never intended to become streets. She believed that rights of way only provided access to a particular property but the land beneath or adjacent to it was not owned by the easement holder. Ms. Olshansky quoted RSA 674:41.

J. Jennison asked Ms. Olshansky what she believed was making the definition broader than the existing definition by what was being proposed to add.

Beth Olshansky expressed that it added broader language, such as “is approved by other official action”.

J. Jennison expressed although that language could be construed as broad it was more specific than existed now.

Beth Olshansky expressed that she believed there was more room for different interpretation in particular with right of way because the person did not own the land.

Beth Olshansky asked that they not move the amendment forward because the language would bring them into questionable if not illegal territory. She asked her document be attached.

Leonard Small of Mendum’s Landing asked if the attorney had spoken to specific cases when she brought this amendment forward or was she talking in generalities. They were concerned with what underlying affect this might have on them.

M. Gasses expressed she was feeling pressured to talk about specific conversations she had had with the attorney and she was not quite sure what they were asking.

Jim Farnum asked adoption of the amendment could lead to more development in this community.

F. Nichols expressed that it just helps people making decision, such as where something is measured from.

Jim Farnum asked if the Board didn’t know if more development could happen because of this than they should not vote to move it forward.

J. Jennison asked if Mr. Farnum believed that all development was inherently bad.

Jim Farnum said no.

J. Jennison expressed that he believed it appeared to be the common denominator. He wanted to know how Mr. Farnum believed it could affect him.

Jim Farnum expressed he was not sure. He had heard that there were otherwise unbuildable areas that if the amendment passed would then be buildable.

J. Brann expressed this was just a clarification of a definition; it did not change any zoning regulation, so it should have zero impact. Whatever development that was going to happen would happen regardless of the definition. He did not see the amendment changing anything, one way or the other in regard to development.

Jim Farnum asked that in regard to Ms. Gould’s property if this change would have any effect on her property.

J. Brann expressed that not in his mind. It was simply a clarification. The Board would continue to operate in the same way regarding the considerations they made.

Jim Farnum expressed that to him it was not crystal [clear], so he would recommend they not move the amendment forward.

Don Brautigam Hemlock Lane believed it opened a whole new category. He believed it could open up development. He questioned whether it was becoming broader than the State and the intended and unintended consequences needed to be thought out.

Tom Daniels of Mendum’s Landing believed it was much more than a clarification and seemed to be a change and as a new member to the community he hoped the Planning Board listened to its citizens.

F. Nichols closed the public hearing.

J. Brann expressed that it was not correct that the State only referred to public roads. The State statute did reference private roads. Based on the wording in the State Statutes he was glad the State Statutes had been provided because he did not believe the amendment language expanded the definition and he believed the language reflected state law. The language of the definition was actually a summary or verbatim of language contained in the State Statutes. He did not see the Board operating differently based upon the amendment language.

S. Diamond expressed the definition of street was different than the definition of way.

J. Brann expressed the State Statute included “ways” under the definition of street and the “way” definition did include private roads. The Board was not being less stringent than State law and in fact reflected State law.

S. Diamond referred to the definition of highway under RSA 229:1 and he said that it was specifically devoted to public use.

J. Brann expressed that was a “highway”. A “highway” was contained in the definition of a way, but the definition of a way was much broader. He believed the amendment added some granularity from the State Statute and he did not see them [the Board] doing anything any different. This would not expand what was currently being done under the regulations. The proposed amendment actually adds what was in the State Statute in regards to a “way” and a “street”. The amendment was neither inconsistent nor less stringent than was what in the State Statute.

F. Nichols expressed the language came from the Town’s attorney who worked on the Town’s behalf and advises and defends us going to court on the Town’s behalf. The attorney had given the Board language that helped the Board defend itself and make more uniform and consistent decisions.

A motion was made by J. Brann and seconded by J. Jennison to accept the proposed change to Article 18 definition of “street” in accordance with the discussion during the public hearing and move it to the warrant.

Roll call

S. Diamond	nay
D. Ayer	aye
D. Massucci	nay
J. Brann	aye
J. Jennison	aye
F. Nichols	aye

The motion carried 4-2

The Board took a four minute break.

Pursuant to NH RSA 675:4 and 675:7 notice is hereby given of a public hearing to be held by the Town of Barrington Planning Board for the purpose of discussing proposed petitioned amendments to the Zoning Ordinance.

Petitioned Article #1 – To amend article 9.5(1) (“wetland buffer areas required”) to require a buffer area of 100 feet, and to amend 9.5(2) to require a buffer area of 150 feet for Prime Wetlands

F. Nichols read a letter from Paul Thibodeau of 76 Young Road who indicated he did not support the wetland buffer proposal. *Please see attached.*

F. Nichols opened the public hearing.

F. Nichols expressed the proposal was to increase the Prime wetland buffer to 150', there were no changes proposed to the perennial stream setback of 75', and there was a proposed increase from 50' to 100' for non-prime wetlands greater than 3000 sq. ft. There were two processes for identifying wetlands, including the delineation process and a function and values evaluation. NH uses a delineation process, which is an inventory process and not an evaluation tool. Buffers are attached to basically every inventoried wetland. Evaluation determines the value of a wetland based upon functional value. The known functional values of a wetland are generally related to size. Upland soils range from coarse-textured with rapid or very rapid permeability to fine textured with slow permeability. Farming on upland is more likely to harm wetlands if pesticides and fertilizers are used and the land is regularly plowed and disked. Buffers help protect wetlands but can de-value property if as a result of increasing the buffer the property might not be subdivided. Increasing the buffer seems like a solution in search of a problem.

F. Nichols opened public comment.

Lisa Bassill of Cannan Back Road agreed with the letter of Paul Thibodeau for the same reasons. She lived on a large track of land with her bosses and the increased buffer could negatively affect the value of the property if they were to subdivide.

Krista Butts represented Wildlife Encounters Ecology and Farm School 270 Beauty Hill Road. She asked what the motivation was for the amendment.

F. Nichols explained it was a petitioned amendment brought forward by a citizen or group of citizens. The Board was holding a hearing as required and the amendment would appear on the warrant. It was not an amendment brought forward by the Board.

Krista Butts expressed she taught thousands of children about wildlife and wetlands and all kinds of fun stuff that is related to the environment. The Bow community, with a rich farmland history, was the only other community she knew of that had a 150' setback from prime wetlands. The contact person in Bow was her mother Nancy Reinhardt. If the Board asked her they would find that most of the people who have requested waivers from the 150' buffer were granted because the Town of Bow has been unable to prove that 150' buffer makes a difference. She was not there to support the gentlemen that wrote the letter because she doesn't care if development occurs; this would negatively affect agriculture. Although agriculture was allowed in the buffer, the construction of a barn would not.

She did not support the Board recommending the amendment and believed more research was needed before it went on to the Town. Ms. Butts expressed that if she thought this would save an endangered species or ecological area in Barrington she would be the first to support it, but she did not believe this did. The amendment was going to cost the Town money; it was going to cost the Planning Board and Zoning Board time, for what benefit she did not know.

Piervito Williams 84 Cannan Back Road explained he loved climbing and the outdoors and grew up on farmland. He saw several issues with the proposed amendments. He agreed that if the amendment passed it would negatively affect farmers and developers. He was concerned the amendment would be going forward to a public that was not educated about the outcomes. There was not peer reviewed evidence on what the outcomes would be. He was a scientist and believed research based decisions were the best. The public would be voting without that knowledge.

He did not believe the buffer should increase or the Board recommend the amendment. At least one document had shown that in regard to water purity the increase in buffer did not result in a significant increase in purity. He added he made his living on the outdoors both here and around the country.

Pat Morris of Cannan Back Road stated the petition hits him and his family directly. He expressed he was a disabled veteran who had to give up his business a few years ago because he could no longer do the work. They had about 7 acres of land on their property and were in the process of subdividing. He actually signed the petition Steve brought around, not understanding the ramifications at the time or that it would immediately go into effect so they had to stop their surveyor from going any further until the amendment was voted on. Increasing the proposed buffer to 100' would reduce the building envelope to less than 10% of the original proposed size. That was going to cost him thousands of dollars based upon the price he could get for the lot. It would make it harder to sell based upon the restricted area to put up a building. The proposal had already impacted him and impacted him hard. *(see attachment)*

F. Nichols closed public comment.

S. Diamond expressed that farming was allowed in wetland buffers.

F. Nichols asked if that included the use of fertilizer and pesticides.

S. Diamond believed there was no exception to the use of fertilizers and pesticides.

F. Nichols expressed that wasn't agriculture what typically caused sediment and chemicals to get in the wetlands.

S. Diamond expressed potentially. He went on with the Piscataqua Rivers Estuary Project for 2018 reads, "The data in the 2018 State of our Estuaries Report sends us a clear signal our estuaries have declined due to stress and they are losing resilience to sustain themselves in the face of growing pressures that include changing climate alterations and land use and growing population". Specifically the concern was about Great Bay. Its condition was declining in a way that may not be correctable no matter what we did. The organization had now back peddled on its position on wetland buffers, but they were saying it was a critical situation. They congratulated towns for what they were doing, but did not go on to say what towns could do to correct the problem.

F. Nichols expressed they came out 10 years ago with what would happen if things were done and now they were back peddling because those changes were made and the results did not change.

S. Diamond expressed towns took great steps in regard to waste water treatment plants regarding nitrogen loading, but that was only 30% of the problem. The head of the Conservation Commission had told him that the State was going to address the issue years ago, but had not. He had not fully understood the affect this may have on people, especially the Morse's. He believed any action to address the situation would have to be something drastic. DES provided a document with a number of studies that suggested different size buffers; the studies were measuring different things. He believed the compromise had already happened and the result was 100'.

J. Jennison asked if the back peddling was due to the fact they had used faulty data.

S. Diamond expressed that was not his understanding, but there had been a lot of controversy around the data. They had 3500 responses of a wide variety.

J. Jennison believed the proper way to address this was limiting uses in the setback as opposed to increasing the setback.

S. Diamond expressed he would have done it somewhat differently if he was to do it again.

D. Ayer expressed the State does not recognize buffers at all. Changes were made 15 years ago by digging trenches to allow salt water back into marshes.

S. Diamond expressed that ideally the State would regulate buffers so that they were consistent from town to town. Currently some towns had buffers while others do not.

D. Ayer expressed now we have rain gardens and the whole idea was to allow the rain to infiltrate into the ground.

F. Nichols expressed the reason the State did not have buffers was not that they think they don't have value, but they cannot come up with a one size fits all. Some wetlands are only ten feet wide but long enough to require a buffer or you have a wetland that is not a habitat for animals and it does not flow into a stream or river and certainly was not perennial stream and does not do much of anything.

S. Diamond did not believe it was reasonable or fair to have an expert come to every Planning Board meeting.

J. Brann read from 9.4 permitted uses in the wetland buffer; 9.4(1) Forestry/tree farming; 9.4(2) Agriculture, including grazing, farming, truck gardening and harvesting of crops; but not including the stock piling of manure or other activities or practices that could contaminate surface or groundwater.

J. Brann expressed one of the problems the State was having was one size did not fit all. He believed if the petition was only talking about increasing the buffer to prime wetlands this would have been a different conversation. In regard to the 50' to 100' or to nothing, 50' was definitely a compromise if you didn't have any granularity on what the size and impact was for a specific wetland. A one size fits all regulation was always difficult because you are either over reaching or under reaching. Increasing the buffer as Mr. Morse had shown would have a significant financial effect. There was not a substantial increase in benefit from increasing from the 50' to the 100' buffer. If you looked at the economic effect of increasing the buffer, the 50' buffer seemed to be a reasonable compromise.

F. Nichols expressed that the 75' setback to a perennial stream would end up being less than an isolated wetland.

D. Massucci agreed it should not be one size fits all. Each lot was different and what was happening to Mr. Morse was terrible. She believed what the Town had was good.

A motion was made by D. Ayer and seconded by D. Massucci to not recommend approval of this amendment.

Roll Call

S. Diamond	nay
J. Jennison	aye
F. Nichols	aye

D. Ayer aye
D. Massucci aye
J. Brann aye

The motion carried 5-1

Petitioned Article #2 – To repeal article 4.1.3 (“backlot subdivisions”) and subdivision regulation 11.2.4 (backlots permitted”)

F. Nichols read article 4.1.3 as it currently existed.

4.1.3 Back Lots

For residential subdivisions, up to two(2) back lots may be allowed, notwithstanding the frontage requirements specified in the Table of Dimensional Standards.

4.1.3(1).....The parcel must have at least fifty (50) feet of frontage on an existing Class V or better road.

4.1.3(2).....If there are two (2) back lots, the ownership of the neck and frontage shall be owned equally by both back lots.

4.1.3(3).....The area of the neck cannot be used in any way to calculate the minimum lot size.

4.1.3(4).....Back lots are not allowed of culdesacs.

4.1.3(5).....Driveways must be centered in this neck as much as possible and the neck kept clear and maintained for safety.

4.1.3(6).....A permanent road agreement will be executed, shown on the plan and recorded in the deed of each lot.

F. Nichols started to read from the Subdivision Regulations 11.2.4 as it existed.

11.2.4 Backlots Permitted

M. Gasses explained the Planning Board would have to vote to amend the Subdivision Regulations if the petitioned amendment passed although the petitioned amendment included this, it was the Planning Board that would need to amend the Subdivision Regulations if the amendment passed.

F. Nichols continued, as provided in the Town’s Zoning Ordinance, a lot of record shall be permitted to subdivide as backlots as part of a conventional subdivision, subject to the following provisions

11.2.4(1)..... Two backlot maximum per subdivision

11.2.4(2)..... Minimum frontage of 50 feet on a Class V, or better road

11.2.4(3)..... 50% of the neck shall be part of each backlot (i.e. 25 feet per backlot)

11.2.4(4).....The neck area cannot be used in the minimum lot size calculation and is exempt from other lot shape requirements.

11.2.4(5).....The back lots shall be deeded as unsubdividable unless additional lots conform to Town zoning and subdivision standards.

11.2.4(6).....Only one back lot subdivision shall be permitted regardless of the number of separate but contiguous lots under the same ownership.

F. Nichols opened public comment.

Lisa Bassill expressed she did not agree with the proposed amendment.

F. Nichols closed public comment.

F. Nichols expressed the current ordinance allowed the creation of two lots without building a road. Without this provision large lots with a small amount of frontage may not be able to be subdivided without Zoning Board approval and that could reduce the value of the land. The petitioned amendment could cause the creation of more roads and more lots would need to be created to pay for the cost of the road.

J. Brann asked S. Diamond what problem he was trying to fix.

S. Diamond expressed that the new State law made it possible for development of a residential nature. He believed there were three considerations; backlots, ADU's and subdivisions.

J. Brann expressed that ADU's had nothing to do with subdivisions.

S. Diamond expressed he was talking about options for residential development.

J. Brann expressed that ADU's were never intended to be part of, and were totally disconnected from, other development avenues.

S. Diamond expressed that 750 sq. ft. of new structure that you could build and rent out was new development. He believed it would require the creation of roads built to a standard.

D. Ayer explained there would have to be a primary structure first.

S. Diamond expressed that if every house out there did it that would be development.

J. Brann expressed he did not see what backlots had to do with ADU's. ADU's were State law and the Board actually put restrictions on them; if they had not they could have designed whatever they wanted.

J. Jennison expressed that S. Diamond was looking at it as increased density.

S. Diamond expressed roads cost money.

M. Gasses expressed that the proposal created more roads.

S. Diamond expressed he hadn't considered that angle of the proposal. A regular subdivision would require the roads be built by the developer to a standard.

F. Nichols questioned what that had to do with backlots.

D. Ayer expressed backlots use driveways for access.

S. Diamond expressed he was looking for a single process for doing subdivisions that would ensure that infrastructure was built to standards and would be paid for by the developer.

D. Ayer expressed you would be creating more infrastructure and creating more runoff.

S. Diamond expressed that any lot needed access.

D. Ayer expressed that if you put a road in you need more width.

S. Diamond expressed that there needed to be safe access in all seasons.

J. Brann expressed that there would always be those who tried to skirt the rules, but if the Board conducted itself with what the Zoning and Subdivision regulations already said there should not be an issue. There were only two backlots allowed, that is all there would ever be. He could not imagine the Town ever taking over a driveway that serviced two houses. He understood there had been people who have done subdivisions in the past and tried to skirt the rules to get out of building roads, but he had volunteered to work with Marcia to make the rules more consistent. He understood the concern, but with backlots you are held to only two lots and did not see how that would increase the cost to the Town. He did not see the risk of the Town taking over the maintenance of a driveway as a credible argument against backlots.

S. Diamond expressed that there had been a number of incidents where it has not been clear if the home owner would maintain the road for safety access.

J. Brann expressed that was an issue that the Board could address as part of a subdivision, but in regard to a shared driveway; he shared a driveway with someone and frankly if he couldn't get his car in his garage that was their problem.

S. Diamond expressed he was concerned about how the regulation could be wiggled. He used proposed change to amend the regulation on back lots to how it had been interpreted from how it had been written as an example.

J. Brann expressed he had a background in regulation and it always came down to enforcement and intent of the regulation. He believed it was clear in the Zoning Ordinance that there was only two backlots to be created.

S. Diamond believed any ambiguity could be exploited.

F. Nichols expressed that just tossing something wasn't necessarily the best was to fix ambiguity.

J. Brann expressed that he did not see the argument. The Board could make adjustments to the regulation if they saw things going astray, but not totally wipe out backlots completely. The move seemed drastic given he was not aware of any issues, at least in the two years he had been on the Board.

John Huckins said he had been there for 15 years and had not heard of one issue.

J. Brann expressed it was a really draconian solution to a problem they had not had to deal with.

A motion was made by J. Brann and seconded by J. Jennison that the Planning Board does not recommend approval of the petitioned article to repeal article 4.1.3 ("backlot subdivisions") and subdivision regulation 11.2.4 (backlots permitted")

Roll Call

S. Diamond nay

D. Ayer	aye
J. Jennison	aye
J. Brann	aye
D. Massucci	aye
F. Nichols	aye

The motion carried 5-1

Copies of the full text are available to review in the Land Use Office and the Selectmen's Office located at 333 Calef Hwy in the Town of Barrington or online at barrington.nh.gov. The public is invited to attend and participate in the Public Hearing. Please contact the Land Use Office at 664-5798 with questions.

MINUTES REVIEW AND APPROVAL

1. Approval of the January 2, 2018 Meeting Minutes.

Without objection the minutes were approved as presented.

COMMUNICATIONS RECEIVED

REPORTS FROM OTHER COMMITTEES

UNFINISHED BUSINESS

OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

2. Work Session on Capital Improvement Programs.
The Board postponed review until a later date.
3. Cases for the February 6, 2018 meeting.
The Board will hear a request for site review for a granite sculpting business with an apartment above.

Without objection the meeting was adjourned 9:00 p.m.

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

February 6th, 2018 6:30 p.m. at the Early Childhood Learning Center

Respectfully submitted,

Marcia J. Gasses
Town Planner & Land Use Administrator

ATTACHMENTS