



BARRINGTON PLANNING BOARD MEETING

NEW LOCATION: EARLY CHILDHOOD LEARNING CENTER
77 RAMSDELL LANE
Barrington, NH 03825

Tuesday July 10, 2018
6:30 p.m.

(Approved August 7, 2018)
MEETING MINUTES

**NOTE: THESE ARE SUMMARY ACTION MINUTES ONLY. A COMPLETE COPY OF
THE MEETING AUDIO IS AVAILABLE AT THE LAND USE DEPARTMENT.**

Members Present

James Jennison, Chair
Jeff Brann, Vice Chair
Steve Diamond
Donna Massucci
Andy Knapp ex- officio

Town Planner: Marcia Gasses

MINUTES REVIEW AND APPROVAL

1. Approval of the June 19, 2018 meeting minutes.

Without objection the Board approved the June 19, 2018 meeting minutes with a minor change to line 121.

ACTION ITEM CONTINUED FROM JUNE 5, 2018

2. [263-13.1,13.2,18&19-RC-18-9.6 263-13.1,13.2,18&19-RC-18-SR \(Owners: Town of Barrington, John Scruton, Town Administrator and Liberty International Trucks of](#)

Barrington, LLC Request by Applicant Arleigh Green, Hard Rock Development, LLC, for development of an excavation project for the sale of sand/gravel. Construction to include the construction of proposed roads shown to road base and proposed drainage features on Route 125 (Calef Highway) and Pierce Road (Map 269, Lots 13.1, 13.2, 18, & 19) in the Regional Commercial Zoning District. BY: Barry W. Gier, PE, Jones & Beach Engineers, Inc.: 85 Portsmouth Avenue, Stratham, NH 03885. **Application has been accepted as complete.**

J. Jennison explained to the Board that they were there to vote on the request to continue for the reasons described in the letter provided.

M. Gasses read the following part of the letter from Jones and Beach Engineers:

“Subsequent to our initial Planning Board hearing, the New Hampshire Department of Environmental Services in conjunction with N.H. Fish & Game, U. S. Corps of Engineers, and U.S. EPA requested a pre-application meeting to discuss the potential environmental impacts of the project”.

M. Gasses explained that herself and John Scruton attended the meeting in Concord and explained that a site walk was requested by these groups. She explained that they wanted to come down and walk the site and this happened yesterday. She explained that this was about a 2 to 2 ½ hour walk which she went on also. She explained that the applicant was going to address some of the comments so they are asking for a continuance.

M. Gasses also informed the Board that last night the Select Board took a couple steps in regard to the Hard Rock Application. They authorized the Town Attorney to look into the validity of the Community Bill of Rights, up to and including court action if necessary. The second vote was in regard to the regulators from the State and Federal level and their review of an area which would become a perched vernal pool and wetland area. The recommendation from the group was to actually allow that area to be leveled but to include an area of 20+ acres of land being added to the SATWaSR Tamposi Conservation Area to mitigate the wetland impacts. She explained that the Select Board took a vote to conceptually add this, but they would need to have a public hearing at some point. She also explained that as far as blasting, the Alteration of Terrain Permit (AoT) which was a State DES permit did now require a pre-blasting survey as part of the Alteration of Terrain Permit (AoT). She believed that this would include all the wells within 1,000 feet.

J. Brann explained that wells were listed in RSA: 155E as items that needed to be addressed.

M. Gasses explained that wells were part of the AoT permit. She explained that it was interesting to see how all the partners came together to look at the application. She stated that her recommendation would be to continue the case to August 7, 2018 meeting.

J. Brann stated that his opinion was that even though the applicant from Hard Rock was not present, the fact that the Select Board has taken action along with the State regulators that the case could be continued.

M. Gasses explained that most communities do not request the applicant to be there to continue and as the applicant was on vacation, there may have been some confusion in their office.

J. Brann expressed that given a member of the Select Board was present the case could be continued.

A. Knapp ex-officio expressed that the Select Board thought it was important for the public to know what the Select Board was talking about in the nonpublic session and unsealed the minutes. He explained that one of the big concerns was the Barrington Community Bill of Rights piece and they didn't want to have a repeat of things that have happened in the past. He explained that the Select Board had a lengthy discussion on having the attorney determine the validity of the Bill of Rights and how it should be handled.

J. Brann expressed that it was the Select Board that decided to move forward on the contract. He explained that it was the Planning Board that would apply the Regulations.

A. Knapp expressed that the validity had not been addressed any place in the state that they could see.

M. Gasses explained that this was not under Land Use law or a zoning law but was important to get it straightened out ahead of time so it's not hanging over anyone's head.

S. Diamond expressed that when a developer sends a letter for continuance the applicant needs to be present just in case the Board said no and a lot of residents had shown up and wanted to speak up. He expressed that he didn't want it to seem that Hard Rock was getting special treatment by the Planning Board.

M. Gasses explained to the Board that there had to be a really good reason to not grant a continuance. She explained that they had a case before the Board that continued month after month and they weren't doing anything so the Board came up with a policy to have the applicant present. She explained that in this case it was justified; there must have been a miscommunication between Barry Geir and his office because he left for vacation.

J. Brann explained that this might look like special treatment because if anyone else came in they would need someone present. He asked if M. Gasses would give the applicant a call tomorrow and ask why they had not attended.

M. Gasses explained to the Board that the Board was interested in doing the hydro study along with the Conservation Commission. She explained that they are working on getting the study completed.

J. Jennison explained to the Board that the Town was also one of the applicants and a Select Board member was there so he felt that there could be a motion to continue the case.

A motion was made by J. Brann and seconded by J. Jennison to grant the continuance of the case until August 7, 2018. Vote 4 approved/1 abstained.

J. Jennison asked if the Community Bill of Rights could be discussed without discussing the application.

M. Gasses explained that this has been turned over to the attorney and let the process do what it has to do.

S. Diamond questioned what would the attorney do.

M. Gasses read the motion from the Select Board:

Selectperson Hardekopf moved, Selectperson Ayer seconded to request the Town Attorney determine the validity of the Community Bill of Rights up to and including court action. Passed 5-0.

M. Gasses explained that there would possibly be summary judgement.

S. Diamond questioned the legal part and asked if it would be heard by Superior Court.

M. Gasses explained that this could go to the Superior Court level if necessary.

J. Jennison explained that the attorney would give all the information to a judge where he would make a summary judgement and he explained that it doesn't necessarily go to the court for litigation.

A. Knapp explained that the judge could make a summary judgement on the case and that could be appealed or not.

S. Diamond asked if any other interested parties could chime in on the process.

M. Gasses explained that she did not know; she had never been through this process.

A. Knapp explained that usually both parties would go through the process.

S. Diamond asked if the other side would receive some type of notice.

M. Gasses explained that she did not know enough about the process to give information.

S. Diamond asked M. Gasses if someone wanted to add a brief to go with it, would they contact her.

M. Gasses expressed that she needed to talk to the attorney about the process.

A. Knapp explained that they would go through the documents and see what was relevant and what was not relevant.

M. Gasses explained that a party to this could file with the court. She explained that she did not know which way this would go. She explained that all that she knew that the Select Board would want this straightened out.

ACTION ITEMS

3. [244-23-GR-18-SUB\(2\) \(Owners: Paul & Linda Morse\)](#) Request by applicant to subdivide a 6.57 acre lot into 2 parcels and waiver. Proposed parcel 1 will be 2.01 acres and the remaining lot will be 4.56 acres located on 154 Canaan Back Road and Old Settlers Road (Map 244, Lot 23) in the General Residential (GR) Zoning District. By: David W. Vincent, LLS, Land Surveying Services, PO Box 1622: Dover, NH 03821.

S. Diamond recused himself from this case.

J. Jennison gave a brief description of the application.

David Vincent from Land Surveying Services explained that he was representing the applicants Paul and

Linda Morse for a 2 Lot Subdivision on the corner of 154 Canaan Back Road and Old Settlers Road. He explained that the applicants would like to subdivide the 6.57 acres into two lots. He explained that Lot 1 would be 1.99 acres and the remaining land would be 4.57 acres. He explained the location of the existing house, structures, well and driveway. He explained that the wetlands had been flagged by a wetland scientist and test pits had been done. He explained that State Subdivision approval had been received from the NHDES. He explained that they did meet the criteria for the upland soils and wetlands. He explained curb cut for the new lot and showed the location of the proposed driveway would be along old Settlers Road.

J. Brann questioned the location of the house on Lot 23.1.

David Vincent explained that the house could be built in the buildable area from the 40' setbacks.

J. Brann questioned the location of the building given the wetland buffer and location of the test pits and septic didn't leave much area.

David Vincent showed the whole building area.

J. Brann asked about the approximate septic system location with extra test pits near the current house and asked if there was one currently there.

David Vincent explained that there was an older septic system currently there. He explained that the applicant also wanted a design for the existing home.

J. Brann asked if there were any issues bringing in utilities.

David Vincent explained that there was a pole out front that they could come off to go underground. M. Gasses explained to the Board that the waiver for lot shape that was normally done before the application was complete. She explained that because of the size of this lot that it could be done after the application was accepted as complete because the lot lines could change and still meet the regulations.

A motion was made by A. Knapp and seconded by J. Jennison to accept the application 244-23-GR-18-SUB (2) as complete. The motion carried unanimously.

J. Jennison opened public comment.

J. Jennison closed public comment.

J. Jennison asked if there was any way to move the line so it could be moved straight to avoid the waiver.

David Vincent explained that he could not make a straight line with the 60K requirement and make it work and the parallel line was 5' from swamp. He explained that he made the new lot as conforming as much as he could with the front working.

Requested Waivers for Map 244 Lot 23:

11.2.2 Lot Shape

A motion was made by J. Brann and seconded by D. Massucci to grant the waiver for 11.2.2 Lot Shape as 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 unanimously.

8.8 Granite Bounds

David Vincent explained he had already installed drill holes in the stonewall and it was impractical to set granite bounds.

A motion was made by J. Brann and seconded by A. Knapp to grant the waiver for 8.8 Granite Bounds as 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 unanimously.

M. Gasses read conditions precedent:



Planning & Land Use Department

Town of Barrington

PO Box 660

333 Calef Highway

Barrington, NH 03825

603.664.0195

barrplan@metrocast.net

DRAFT NOTICE OF DECISION

Office use only	Date certified:	As built received:	Surety returned
		n/a	n/a
<i>"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.</i>			
Proposal Identification: 244-23-GR-18-SUB(2) Request by applicant to subdivide a 6.57 acre lot into 2 parcels and waiver. Proposed parcel 1 will be 2.01 acres and the remaining lot will be 4.56 acres located on 154 Canaan Back Road and Old Settlers Road (Map 244, Lot 23) in the General Residential (GR) Zoning District. By: David W. Vincent, LLS, Land Surveying Services, PO Box 1622; Dover, NH 03821			

Owner: Paul H. Linda E. Morse 154 Canaan Back Road Barrington, NH 03825 Professional: David W. Vincent, LLS Land Surveying Services PO Box 1622 Dover, NH 03821	Dated: XXXXX/2018
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Dear applicant:

This is to inform you that the Barrington Planning Board at its XXXXX, 2018 meeting **CONDITIONALLY APPROVED** your application referenced above.

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

Please Note* If all of the precedent conditions are not met within 6 calendar months to the day, by XXXXXX, 2018, the Boards approval will be considered to have lapsed, unless a mutually agreeable extension has been granted by the Board. *Reference 8.2.3 of the Town of Barrington Subdivision Regulations*

Conditions Precedent

- 1)
 - a) Add the owners signature to the final plan
 - b) Add the wetland scientist stamp & signature to the final plan
 - c) Add State Subdivision Approval Number to the Plan
- 2) Add the following plan notes:
 - a) Old Settlers Road is a Class V gravel Scenic Road and susceptible to spring freeze thaw cycles including mud.
 - b) Waivers Granted:
 - 11.2.2 Lot Shape
 - 8.8 Granite Bounds
- 3)# Proper and complete survey monumentation shall be installed on the properties as a condition to final approval of the application. Granite bounds shall be set at the intersection of existing or proposed lot sidelines with existing proposed streets. Iron pins (pipe or rod) are to be placed at all property line corners and angles, and all points of curvature and points of tangency. Monuments for the lot being developed shall be placed not more than 300 feet apart in any straight line. The applicant's surveyor shall certify in writing that the bounds and pins have been installed according to the submitted plan. (*Reference 8.8 of the Town of Barrington Subdivision Regulations*)
(A waiver was granted from 8.8 Granite Bounds to allow for drill holes in the stonewall)
- 4) Any outstanding fees shall be paid to the Town
- 5) Final Drawings (a) five sets of black line (b) plus one set of 11"X17" final approved plans must be on file with the Town. Each individual sheet in every set of drawings must be stamped and signed by the land surveyor, engineer, or architect responsible for the plans. Note. If there are significant changes to be made to the plans, as specified above, one full size check print must be sent to the Land Use Office for review prior to producing these final drawings.

(Note: in the section above, the numbered condition marked with a # and all conditions below the # are standard conditions on all or most applications of this type).

I wish you the best of luck with your project. If you have any questions or concerns, please feel free to contact me.

Sincerely,

Marcia J. Gasses
Town Planner & Land Use Administrator

cc: File

A motion was made by J. Jennison and seconded by J. Brann to approve the 2 Lot Subdivision Based on Notice of Decision read by the Town Planner. The motion carried unanimously.

S. Diamond returned to the Board.

4. 257-23.3-GR-18-Waiver (Owners: John R. & Pamela P. Bingham) Request by applicant for a waiver from Article 14 Utility Design Standards, Section 14.1.1 Underground Utilities on 23.3 acre lot at 226 Merry Hill Road in the General Residential (GR) Zoning District. BY: Chris Berry, Berry Surveying & Engineering; 335 Second Crown Point Road; Barrington, NH 03825.

J. Jennison gave brief description of the application.

Jack Bingham of 226 Merry Hill Road was asking the Board for waiver from 14.1.1 from the requirement for underground utilities for part of the way to the building due to the presence of ledge underground for the balance of the route on Map 257 Lot 23.3. He explained to the Board how far he would need to go before the utilities would go underground. He showed the Board where the house was and where the new driveway was. He showed the location of the 2 poles before going underground.

J. Jennison asked if the Board had any questions.

A motion was made by J. Brann and seconded by S. Diamond to accept the application as complete. The motion carried unanimously.

S. Diamond asked M. Gasses if the town had a confirmation that ledge was there.

M. Gasses explained that this site had a lot of ledge. She explained that if you looked at the topography you could see that. She explained that she did not go out and verify for a fact.

J. Jennison opened public comment.

J. Jennison closed public comment.

A motion was made by J. Brann and seconded by A. Knapp to accept the waiver for 257-23.3-GR-waiver as 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 carried unanimously.

COMMUNICATIONS RECEIVED

5. M. Gasses explained that there was a letter in the packet from Barrington Waterway Protection

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Committee and a letter from James Conley that she would scan and send to the Board.

6. Review of a request for a building permit at 332 Long Shore Drive a Private/Class VI, for John and Mary Houle (Map 103, Lot 82).

M. Gasses explained that was the third time they have come before the Board and two indemnifications are already recorded. She explained in this case they wanted to add living space to their home because the grandchildren have come to live with them. She explained that Peter Cook, Road Agent has gone out and looked at the road; his memo was attached with his recommendation.

S. Diamond questioned no scale on map, it doesn't show how wide the road was, and no width measurements were standards are specified for the Class VI/private road.

M. Gasses explained that this was Long Shores Drive and was an existing road.

A. Knapp asked if they needed to get a new septic design in case the current one fails.

M. Gasses explained that was John Huckins responsibility.

Without objection the Board agreed to send a letter to the Select Board stating that they knew of no pending projects or conditions that would hinder the issuing of a building permit. The Board concurs with the recommendations of Peter Cook, Road Agent.

M. Gasses asked S. Diamond if he wanted to add something to the memo.

J. Jennison explained that this was a private road and you couldn't expect one person to maintain the road.

S. Diamond expressed that one person shouldn't have to maintain the road but there was still a problem and felt this should be addressed.

J. Brann explained that the washout was at the end of their driveway and they are basically fixing up their area.

M. Gasses explained that they are actually grading the road to their house.

J. Jennison expressed that if you lived there and tried to get everyone on board, it would be difficult.

S. Diamond expressed that a road is a safety concern; that was why there are State fire codes.

M. Gasses explained that the Fire Chief would weigh in on this.

S. Diamond questioned that if this was a private road, then all the residents need to contribute to maintaining the road.

J. Brann expressed the Road Agent, Fire Chief, and Police are looking out for the safety of the roads. He explained that this road predates the current regulations.

J. Brann explained that regardless of what the Planning Board said, it would be up to the select Board to make the decision [on the building permit].

S. Diamond questioned asking the Fire Chief if getting in the road was possible.. He asked if it was okay to ignore State fire code and suggested the Fire Chief be queried if he believed enforce fire code would be enforced [relative to roads].

M. Gasses explained to the Board that it was not the Planning Board role to judge whether the Fire Chief was applying the fire code correctly or not.

S. Diamond expressed that right to question that the Fire Chief said that he could get in the road. He expressed that his interest is to find out the real story.

J. Jennison explained that he felt that S. Diamond wanted the Town Attorney to weigh in to see if the Planning was annoying any type of ordinance by what the Board was doing.

J. Brann explained to S. Diamond that he had extensive discussions with Chief Walker while working on Site Regulations and was confident Chief Walker enforces State fire code. A. Knapp agreed.

M. Gasses asked if the Board wanted a sentence added and they stated no.

J. Jennison asked the Board if the Board should ask the attorney about the fire and safety on these roads.

J. Brann explained to the Board that this was a Select Board decision.

S. Diamond expressed that he would like this to go through the Municipal Association to clarify when and how was it the Town responsibly to do something about these roads.

M. Gasses explained that she felt they would not answer this question. She explained because it was related to the Town regulations.

A. Knapp expressed that he felt you can't do things for the will of one Board member.

J. Brann stated that they are the wrong body to address this. He explained that this needs to go to the Select Board.

J. Jennison asked the Board if anyone opposed to asking the Municipal Association the question.

J. Brann stated that he objected because he didn't feel this was the Planning Board's role.

D. Massucci expressed that the Select Board should do their job.

J. Brann asked A. Knapp, Select Board member, if this was brought to the Board would they answer this.

A. Knapp explained that he could not speak for the Board. He explained that it would need to come before the Board to see if they wanted to take action.

J. Jennison asked A. Knapp if he would present this to the Select Board at a future meeting.

S. Diamond asked if he went to the Board during public comment, would he get an answer.

A. Knapp explained that he didn't know if they would get an answer right then; the Board may need to do research.

J. Jennison explained to the Board that there seems like a lot of interest on the Hard Rock application. He expressed to the Board to be careful what you put on social media and judging the case prior to meeting.

M. Gasses explained to the Board that if persons form an opinion on how they feel about an application, make it known while the application is before the Board, and then voted on the case, if that case gets appealed to court it could be overturned.

REPORTS FROM OTHER COMMITTEES

7. M. Gasses explained that she sent out a email to try and get the Wetlands Buffer Committee back on track and explained that she emailed Chris Berry. She explained that she would contact Fred Nichols to see what the committee wanted to do and see if the committee wanted to send out an RFP.

UNFINISHED BUSINESS

OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

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

The next meeting will be on August 7, 2018 at 6:30p.m. at the ECLC 77 Ramsdell Lane.

Without objection the meeting was adjourned at 7:57p.m.

Dear members of the Planning Board,

July 10, 2018

The proposal for a gravel and granite mining project in Barrington is up for review. I would like to take a moment of your time to inform you that the town voted in an ordinance that defined what they were/are willing to accept as land use in their town. You may say that this is not enforceable, however you have a responsibility to uphold the ordinances that the towns people of Barrington voted in. You have an obligation to respect their wishes and abide by it.

If you don't feel that the majority of the people's voting wishes are important then may you would care to educate yourself on the fragility of the freshwater wetlands that our Barrington has so much of.

There were people that thought the earth was flat, but they learned differently, then there were people who believed that we couldn't possibly pollute the vast oceans, but they have learned differently, now there are those who think that the exploitation of freshwater wetland resources within their own town isn't going to matter, but it does. In fact what you trying to get through is severely damaging the freshwater wetlands which the entire health of the planet relies on. Please, read these two pages which I borrowed from an exhaustive study by the World Wildlife Fund that addresses the destruction of the freshwater wetlands. You will see just how what you are trying to get approved is only going to contribute to the accumulative destruction of the freshwater wetlands. I feel that if one finds themselves living in an area such as where we are, you, by proximity, have a very serious responsibility to use your energy and intelligence to protect the area.

Please, for all of our sakes and, believe it or not, the sake of our planet, read this and act on it for everyone's sake.

Most sincerely,

James F. Conley
President
B.W.P.C.
978-621-7333

LAND USE OFFICE

JUL 10 2018

RECEIVED