



**BARRINGTON PLANNING BOARD MEETING**

**NEW LOCATION: EARLY CHILDHOOD LEARNING CENTER**

**77 RAMSDELL LANE**

**Barrington, NH 03825**

**Tuesday February 19, 2019**

**6:30 p.m.**

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

**(Approved March 5, 2019)**

**Draft Minutes**

Members Present

James Jennison, Chair

Jeff Brann, Vice Chair

Steve Diamond

Andy Knapp ex- officio

Fred Nichols

Member Absent

Donna Massucci

Town Planner: Marcia Gasses

**MINUTES REVIEW AND APPROVAL**

1. Approval of the February 5, 2019 meeting minutes.

*Without objection the minutes of February 5, 2019 were approved as written.*

**DESIGN REVIEW**

2. [223-26&24-RC-19DesignReview \(Owners: Paul Helfgott, Rina Myhre & Carol Ledoux\)](#)

Request by applicant Joseph Falzone for a Design Review on Calef Highway (aka Route 125) Map 223 Lots 26 & 24 on 212 acres; for a 55-lot conservation subdivision and 5-commercial lots in the Regional Commercial (RC) Zoning District. BY: Christian O. Smith, PE, 70 Portsmouth Avenue; Stratham, NH 03885.

Andy Knapp recused himself.

Scott Cole represented the applicant. Mr. Cole presented the yield plan for the location. The proposal showed 5 commercial lots and 55 residential lots. 9700 sq. ft. of approximate wetland impact for the yield plan.

J. Brann asked on clarification of the lines denoting the buffer.

Scott Cole clarified the line that was buffer.

Attorney Mark Johnson asked if there were questions on the yield plan.

J. Brann asked about the minimum of uplands on each lot in the yield plan.

Scott Cole expressed the 60,000 sq. ft. minimum required under the ordinance.

Scott Cole expressed on the conservation subdivision the 55 lots averaged just over one acre per lot. He presented a revised plan with a loop road, which was the recommendation of Department Heads. The required open space under the ordinance was 50% or 89.9 ac. The minimum required upland area under the ordinance was 50% or 44.9 ac. There were 117 acres of proposed open space of which 85.65 was upland. He discussed the private road connecting to Old Green Hill Road.

The plan was to construct in four phases, with the first phase being where the proposed road where a possible Town Hall could access from, and end at the proposed 4-way stop with a turn around. The second Phase would loop around back to Route 125. The third phase would be the right side of the residential loop to a temporary turnaround, and the fourth Phase would complete the residential loop. Two wetland impacts were proposed, the applicant was trying to keep the total impact below 3000 sq. ft.

F. Nichols asked the timeframe.

Joe Falzone expressed Phase one would be this fall and Phase 4 would be about three years out.

S. Diamond asked about the positioning of the connection to Old Green Hill Road.

Scott Cole expressed the location provided access to the abutter Jim Connick for future potential development.

J. Brann asked about deeded access to the cemetery.

Scott Cole expressed they would add it to the plan.

S. Diamond asked about the stipulations put on the lot gifted to the Town.

Joe Falzone explained that if the lot was gifted to the Town they would need to begin construction within two years. The lot was mainly level and there was sand on the proposed lot.

M. Gasses asked if the clock for construction would start ticking after the lot received final approval.

Attorney Mark Johnson expressed that the timeframe would start after the lot transferred to the Town. They could not transfer the lot until the applicant received final approval.

F. Nichols asked about the size of the homes.

Joe Falzone expressed they would be similar to the Village Place development, which averaged between 1,800 sq. ft. and 2,600 sq. ft.

Scott Cole expressed they would need State subdivision approval and a NHDOT driveway permit. A scoping meeting had been scheduled for March 13<sup>th</sup> at NHDOT in Concord.

Scott Cole explained that in order to design the grade for the loop road they would need a waiver for approximately 200-300 feet. Peter Cook, Road Agent and Rick Walker, Fire Chief did not object provided the grade did not exceed 9%. They would attempt to keep the grade as low as possible.

J. Jennison asked how the open space would be protected.

Joe Falzone expressed he would defer to John Wallace and what he thought was best.

John Wallace expressed the Town could own it with the approval of the Select Board or a conservation easement held by a land trust which would be the preferred route.

S. Diamond asked if they could give an additional access to the open space between lots 21 and 22.

Joe Falzone expressed they could look at that.

J. Brann questioned whether the private road should be paved to 20’.

There was discussion among the Board on the benefit of paving the width at 20’ to the end of the lots and then changing to a gravel path, which could be blocked off to prevent vehicles from accessing via Old Green Hill Road. The requirement for a private road under the regulations was 20’ of pavement and it made sense to require the 20’ even though the road would initially only serve 2 lots. The road would serve as a future connection to the adjacent Connick property.

Joe Falzone expressed that they could do that if it was the desire of the Board. He would also make sure that there was adequate turning space for the Fire Department.

Brendan Quigley of Gove Environmental Services spoke to the character of the open space. He described the wetland at Old Green Hill, which was drainage that was impeded by culvert damage and beavers. He did not believe this wetland was of high value given its proximity to Route 125. The wetland that was not on this lot, but across Old Green Hill Road contained a prime wetland. The wetland was not part of the open space. The second block was a large block of forested wetlands with adjacent uplands which preserved the functions and values of the wetlands. All the wetlands are forested, with pretty mild hydrology. The wetland to the east eventually canalized and became an intermittent stream. There was a lot of steep slope. There were no ponds. The large blocks of uplands have wildlife value, recreation value, and water quality protection value. He had not been aware that Lot 24 and parts of Lot 26 that were part of the proposed open space contained soils of prime, statewide, and local importance.

John Wallace asked if there were any vernal pools.

Brendan Quigley expressed he had not seen anything that met the criteria at the time he had extensively walked the property, but it had been in the late summer. They would be out to look again. There was an intermittent stream that ran southerly on the property.

John Wallace asked if there were any wildlife corridors.

Brendan Quigley expressed there is a corridor that runs through the back that will not be disturbed. Route 125 prevents movement towards the area from the west.

S. Diamond asked if there was any area that had particular values.

Brendan Quigley expressed the open space along the southern slope. There was some channelized flow toward the end and the area was the most remote; it included more significant habitat and discharge that goes all the way to the Bellamy Reservoir.

J. Brann asked what impact the drainage would have on the open space, given all the impervious surface that would be created.

Scott Cole explained they would be doing extensive studies as part of the Alteration of Terrain Permit. They were in the very early stages of the project and a lot of work remained. They had not completed a drainage study.

J. Jennison opened public comment.

Jim Connick expressed he owned the property on the other side of Green Hill Road. He was very happy with the option Joe was considering. Jim expressed the left side of Old Green Hill was a prime wetland while the wetland on the south side was not.

Stephen Jeffery expressed he did not believe the 100' buffer could be part of a commercial lot. He believed having the residential lots going through commercial lots for traffic was nuts. He anticipated conflicts between Town Hall traffic and residential traffic, and questioned who would plow and maintain the road, and whether the Town would pay dues to the homeowner's association. He expressed that the regulations preferred for there to be a frontage road along 125. He questioned where the frontage road was and expressed the Board had not discussed it. Mr. Jeffery went on to say there were numerous places in the Zoning Ordinance where a conservation subdivision was not allowed in the Regional Commercial Zoning District and it was not an oversight. The point had been to discourage residential development in the RC district. It was argued at the ZBA that it was an oversight and he did not believe that was true. Even if they had the variance there were other more stringent provisions in the Zoning Ordinance and they had not received relief from those provisions.

J. Jennison asked what provisions Mr. Jeffery was referring to.

Mr. Jeffery expressed that they needed to read their zoning ordinance; there are several of them in there. Under Article 6 it lists minimum lot size and all the other considerations. He did not have the ZO in front of him, but he could make a list.

J. Jennison expressed that he would prefer that as he was sighting regulations that they were violating. It had gone to the ZBA as the use was not permitted and that was the proper process to follow to

address the requirement, and the variance had been granted for this as well as in the past. When a variance is given repeatedly it is often time to look at changing the regulation.

M. Gasses expressed the only one that she felt she needed to review was whether the 100' buffer could be part of the commercial lot.

J. Brann read from 6.2.6 Perimeter Buffer... "All Conservation Subdivisions must have a perimeter buffer setback of one hundred (100) feet around the entire tract that may not contain any structures or individual house lots."

Mr. Jeffery expressed "lots"

J. Brann stated, "house lots" and it was specific. So, in the case you did not have any structures or house lots within 100' you were okay. So, the contention you could not use the commercial lot was not what it said in the regulation.

M. Gasses said she would look into what Mr. Jeffery was questioning in regard to the 100' buffer.

Mr. Jeffery expressed that he was concerned the Town receiving a lot was very dependent upon the Planning Board approving the subdivision and that was essentially a quid pro quo. He would go there.

J. Jennison questioned whether Mr. Jeffery was implying the Board should deny the application because a philanthropic individual wanted to give a lot to the Town.

Mr. Jeffery expressed that was a quid pro quo.

J. Jennison expressed the applicant had not asked the Board for anything.

Mr. Jeffery expressed the Board had endorsed the application in letter to the ZBA.

J. Jennison expressed that previous to the applicant offering up this land variances from this provision had been granted by the ZBA.

Mr. Jeffery asked who had previously been granted the variance.

M. Gasses expressed the Joe Falzone subdivision on Tolend Road.

Mr. Jeffery stated "case closed."

J. Jennison asked what piece of property did he give to the Town for that variance?

J. Brann asked Mr. Falzone if he would go ahead with the subdivision whether he gave the lot to the Town or not.

Joe Falzone stated "absolutely" The Town may say they don't want it and he would say fine. The same lot would be on the same plan whether the Town takes it or not.

J. Brann expressed he asked the question because in government just the perception of impropriety can be a concern, but in this instance, there was no quid pro quo. The subdivision would proceed in the same fashion whether the Town received a lot or not. There would be no consideration given beyond the rules.

S. Diamond expressed what would consider them biased was whether they had a financial benefit greater than others in the community. It was characterized as philanthropic, but it could also be characterized by offering every member of the community \$70 or \$80.

M. Gasses expressed that what was happening was not uncommon in municipalities across the State, whether it is considered a public private partnership, there was nothing illegal, and it bothered her that the integrity of the Board was being questioned. There was no miss intent whatsoever. The Board would go through and look at the application like any other application, and she had confidence the Board had the integrity to go by the rules just like any other subdivision. It was not an uncommon situation we had here in Barrington in regard to this subdivision.

F. Nichols expressed this location would not be his preference for the Town Hall, but rather over by the Town Center, so he certainly wasn't being influenced by a free lot to build a town hall on. He believed it was a good subdivision, the Town needed more residential subdivisions and homes, and maybe it would help spur more development in the Town Center.

J. Jennison expressed in order to get more commercial, we needed more residential.

J. Jennison asked if they believed donating open space to the Town was the same kind of quid pro quo?

S. Diamond expressed Mr. Falzone was utilizing smart planning, but it was clear he was asking for something in return for that.

J. Brann expressed S. Diamond made a statement that Joe Falzone was asking for something in return and he questioned what exactly he was asking for.

S. Diamond expressed he was asking for the Town to build on that lot.

J. Brann expressed what Mr. Falzone was saying was that he was willing to give the Town the lot to build a Town Hall on, but if the voters vote it down or the Town does not get the funding he will take the lot back and he will do whatever he wants with it.

M. Gasses expressed that whether to build a Town Hall or who would pay for what was not before the Planning Board. What was before the Board was a subdivision just like any other subdivision.

J. Jennison expressed he was missing the fact that this was an approved use of this property. A conventional subdivision was allowed on this property without any variances or exceptions. He was looking to preserve open space for the benefit of the Town; he did not see how that was a quid pro quo. J. Jennison held up the yield plan showing the conventional subdivision.

S. Diamond expressed there are some good things about this.

J. Brann expressed he was a by the book kind of guy and anyone who thought there would be any quid pro quo from him was sadly mistaken.

Attorney Mark Johnson expressed that the Town Hall may or may not happen and they did not expect the Board to look at their application any differently.

J. Brann expressed that they would go forward regardless.

Attorney Mark Johnson agreed.

J. Jennison closed the public comment session.

Attorney Mark Johnson asked if there any other areas to look at as they started to refine the plan.

J. Brann expressed drainage issues and impacts that may have on the open areas. He asked if access to the Town Hall if built would be from the new road or directly off Route 125.

Joe Falzone expressed it was to be off the proposed town road. Route 125 was a restricted highway and you were only allowed so many curb cuts.

John Wallace expressed that Peter Cook had said they would likely plow to the entrance to the Town Hall.

J. Brann asked if the design would allow for commercial traffic in the first several hundred feet.

M. Gasses expressed these would be Town approved roads like any other road in Town that handles both commercial traffic, cars, and delivery trucks etc. We did not know what the uses would be on the proposed commercial lots and chances where they would enter their lot from the new road and exit the way they came in. It was unlikely they would go driving through the residential neighborhood.

Scott Cole expressed vehicle trips trigger a lot of things, including a deceleration lane and based upon the trips the Town Hall alone would not trigger this, which is less safe. As a resident he would prefer a deceleration lane. The combined trips with the housing would likely trigger a deceleration lane.

J. Jennison asked where the northern most commercial lot would take access from.

Scott Cole expressed it would be from the new road and the driveway would likely accommodate an access easement to the heirs of the cemetery. There was a small wetland crossing for that driveway that would be included in the State permit.

S. Diamond expressed John Wallace made it sound like the Town would plow to the Town Hall and pay into the homeowner's association.

M. Gasses expressed that the maintenance was something up for discussion in the future, but typically that was done through some type of maintenance agreement with the Select Board.

S. Diamond expressed that Mr. Jeffery raised the question of frontage roads. The zoning identified frontage roads as a best practice and he questioned what a frontage road would look like.

M. Gasses expressed that this was a frontage road in that it takes traffic off a main road and places it on a secondary road and what they were creating was a secondary road.

S. Diamond expressed frontage roads were also were designed to allow for connectivity.

M. Gasses expressed that was exactly what this was doing based upon this lot's layout. The lot is large, but fairly isolated with development on either site, but they were creating connectivity to Old Green Hill Road.

J. Brann expressed it was a frontage road, just not running completely parallel.

M. Gasses expressed to the Board that she would attend the scoping meeting at NHDOT and report back to the Board.

A. Knapp returned to Board.

F. Nichols left meeting.

### **COMMUNICATIONS RECEIVED**

M. Gasses reminded the Board about the Water and Watershed Conference at PSU if they were interested.

M. Gasses expressed she would be writing a letter of support on behalf of the NH Association of Regional Planning Commission in support of legislation to create a \$450,000 fund to allow for grants to update wetland buffer ordinances. Regional Planning Commissions as well as municipalities would benefit from this bill.

### **REPORTS FROM OTHER COMMITTEES**

#### **UNFINISHED BUSINESS**

#### **3. Discussion of edits to proposed Solar Ordinance**

The Board discussed the revisions made to the proposed Solar Ordinance from the last meeting. Jeff Brann identified the revisions. The Board then had the following comments

- Under the definition of Solar Land Coverage – “,roof areas” was added after fencing
- The Board should think about setbacks
- Article 4 the definition of structure includes ground mounted solar arrays
- Consider an abandonment clause

### **OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD**

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

March 5, 2019 6:30 p.m. at the ECLC

The meeting adjourned at 9:40 p.m.

Respectfully submitted,

Marcia J. Gasses  
Town Planner & Land Use Administrator