

Minutes of the Planning Board Meeting

Monday December 13, 2021 6:00pm

Bonnie Ham called the meeting to order at 6:00.

6:00 PM Public Hearing – Application for Excavation Permit for Caulder Construction LLC, Daniel Webster Highway, Map 112 Lot 008

Steve LaFrance representing Caulder Construction for Excavation permit for Map 112, Lot 008. He was listening on Zoom last month and it was hard to hear so he came in person to explain the plan and answer any questions that the Board or members of the public may have.

The second sheet of the plan documents presented is the proposed excavation plan. Steve indicated the existing entrance on Rt 3 and the stream on the north side. Total plan is 34 acres. DES needed an Alteration of Terrain permit because of disturbance of greater than 100,000 cu ft of earth. The permit is based on this grading plan being presented at tonight's meeting. The plan has been approved by DES. RSA 155-E, state gravel ordinance.

The plan indicates a 0.5:1 slope, which is fairly steep. It will depend on the composition of the material. The final grading, when the ledge has been removed, will be a 10 ft drop into the bottom of the pit. The reason for this is to ensure that drainage channels all flow to the center of the pit and does not run off site nor into the brook.

Test pits are required in the regulation, this is structured for gravel pits. It is not really possible here because this pit is rock. There is no place to do a test pit without blasting.

Gravel pits require a 2:1 slope because that is the maximum angle that growth of new plant life is possible. New plant life cannot be grown on rock ledge so this is moot on the surface of this pit substrate.

We do not have a restoration plan for much of this pit because it is rock ledge and it is not physically possible to restore it. We do have plans for loaming, seeding, mulching and earth restoration where possible.

Steve explained that when an AOT is done for a commercial development, it is valid for 5 years. For a quarry it is issued in perpetuity. Updates are required every 5 years to indicate what material has been removed since the existing conditions plan and how it relates to the ultimate grading plan. This plan indicates the ultimate plan for the final state of the project at the end of life, which may be as far as 25 years out. It may proceed more quickly depending on local requirements for material and how quickly it is sold and used, but it will likely take a long time to reach the full scope of the 34 acres as presented in the current plan – certainly much longer than the scope of the 5-year permit under discussion tonight.

Question from Kevin Foley: What happens to the water until there is a low point?

Answer (Steve LaFrance): Right now it is running through a culvert. We recommend taking out the culvert and redirecting the flow of water back towards the pit center.

Stoney Ridge Environmental did a wetlands study about a month ago.

John Kimball: Reading from 155- E:4 “when all permits have been obtained.”

Steve LaFrance stated that it takes at least 5-6 months to get a wetlands permit after submission of application. He noted that he did meet with DES to review the application and there was no push back from them. This is a costly process and will bring significant revenue to DES.

Kevin Foley noted that there may be conditions attached to the Wetlands permit that we are not yet aware of.

Steve noted that after 40 years of doing this work, we do not design any more, we permit things.

An employee of Caulder Construction stated that 10 years ago he worked for the previous owner in the pit and there was water deep enough to tip the truck over “It was a poophole!” and it is now clean and easy to navigate. The water is not an issue anymore. He noted that Rex has worked hard to clean up the pit.

Steve stated that it is true that we do not yet have the wetlands permit in hand.

Bonnie reviewed Town of Woodstock regulation which does state that “related permit approvals” are a required element of a complete application. ‘

The question was raised as to who has the final say.

Bonnie noted that Planning Board has the final say over the issuance of permits.

The Town does not have a say over the State or Federal government regulations.

Bonnie noted that it may be helpful to go over the submission documents.

Scott asked whether DES enforce the provisions of their permit. Steve noted that Kevin Hayes has already been doing erosion control reports and submitting them as required and will continue to do so.

Bonnie noted that prior to granting a permit the Board will conduct a pre-inspection visit, ensure receipt of appropriate bonding, and be in receipt of DES, and any necessary permits (read from regulation).

Robert stated opposition to further delays in issuing a permit because of the amount of time that has already elapsed since the initial application.

Bonnie countered that it has not been a year. The AOT was received in November. This is the first time that we have been close enough to having a complete application to have a public hearing. Granted it has been a long time gathering all of the appropriate documentation, but it has only been a short time that the application has been complete.

We need to address the bonding issue and we need the hours of operation, and to make a decision on the other permits.

Hours of operation are stated on the plans as 6am to 7pm, six days a week, excepting emergencies,

Bond amount is supposed to be \$25,000 per acre. Bonnie asked whether Rex is willing to provide a bond in the appropriate amount and he replied that he would do so.

Rex stated that they are currently operating from stockpiles. If they do not lay down material in the winter, they cannot process it in the spring.

Hanna asked why it took until a month ago for the wetlands permit application to be submitted. Rex indicated that she was waiting for other scientists to provide expertise and COVID caused additional delays.

Bonnie asked about the non-compliance regarding the quantity and area of material.

Still waiting for:

- EPA – notice of intent for a stormwater permit
- DES – wetlands permit

Casey stated that where the shooting range is located was already disturbed before they began the work there. They did some work on it, but it was already leveled prior to their acquisition of the property.

John Kimball noted that Intent to Excavate notices go through the Select Board and not the Planning Board and the lack of coordination between the two leaves a grey area where anomalies could slip through unnoticed.

Bonnie agreed that this is certainly an area where we could look to better coordination.

Scott suggested that if we do a conditional approval, we could approve it on the basis of agreement that no wetlands are disturbed until such time as the DES Wetlands permit has been received.

Kevin asked about how they planned to deal with fugitive dust emissions related to the gun range area.

Steve noted that as part of the AOT there were 4 lots Lisa Khalil, Map 111, Lot 12, Richard & Susan Rogers, Map 111, Lot 21, Karen Norton, Map 111, Lot 26, Kevin Foley Map 110, Lot 32. Letters were sent out. Only one responded and a water sample was taken. It came out negative for nitrates.

Lisa Khalil on Zoom noted that she will follow up to arrange testing for her property. Kevin Foley stated that he did not receive the letter. Steve offered testing and Kevin declined it.

Steve further explained that the purpose of the testing was to identify the potential for wells downstream of blasting to have been contaminated by ammonium nitrate used for blasting. The nitrates could contribute to "blue baby syndrome" in concentrations higher than 10ppm. If levels are elevated, the owner, the blaster, the town, and DES must all be notified. Valerie Karr from Horizons Engineering is responsible for the testing.

Steve took contact information for Kevin Foley to ensure that he is properly notified.

Endangered Wood Turtle may be encountered on the site. They are to be protected. Photos on plans.

Scott requested that Rex consider more reasonable work hours. He also requested that blasting companies be required to notify abutters. Rex stated that he would notify abutters himself, that this is not common practice for blasting companies.

John Kimball stated that he has a State Trooper report indicating that there were no irregularities in the blast. He requested that blasting mats be required. There is no state requirement for this. Scott noted that any damage is the blasting company's responsibility.

Bonnie stated that blasting is going to be part of the business that occurs on this property. She recommended sensitivity to the neighbors with future blasting activity.

John requested that we consider the past noncompliance and take the time to ensure that no further nuisance or potential safety hazards to abutters will occur. He noted that the regulation states that the Board may choose to not renew a permit if it is out of compliance.

Bonnie noted that the important next step is to bring the pit into compliance. Hanna confirmed that when the wetland permit is received the pit will be fully in compliance.

USGS has aquifer maps, color coded, the darker the blue, the more transmissivity. The other side of Rt 3 is part of the aquifer. That doesn't mean that there may not be a bedrock aquifer, but it is not part of the main aquifer. It is also not part of the aquifer. The brook is also not large enough to be impacted by the shoreline protection ordinance.

Bonnie noted that now that we have the recorded meetings, we have better documentation than had been available in the past and that the public has access to review these meetings, which are posted to YouTube.

John stated that having fire protection in our records cabinet is important. We are in the process of hiring a Secretary and have requested budget to begin digitizing our records, to get them out of the cardboard box and into more secure storage.

John wanted to state that he is not anti-gravel pit. We need them to grow and prosper. He just wants them to operate within the regulations.

Pat noted that he had trouble connecting to the meeting and was unable to join until 6:25. He asked why John Kimball's very long document was delivered to us on the morning of the date of our meeting. Yes, there have been changes over the many years that the pit has been in operation. Rex stated that the last time stone was crushed in the pit was April 2020. Pat further stated that the application needs to be complete before we vote on it. Once it is complete, we need to vote on it and either move it forward or reject it. Pat's opinion is that we need to continue it to the next meeting.

Scott noted that it is the wetlands permit that is missing. If we approve conditionally with the provision that they cannot operate in the vicinity of the wetlands until that permit is received that could be a path forward.

Hanna asked whether the attorney had stated that it was possible to conditionally approve the permit. Bonnie stated that both our Town attorney and the Municipal attorney gave us two options:

1. Take all the information tonight and continue it to give us time to consider the input.
2. Conditionally approve the permit

Scott proposed a motion to vote with the condition that no wetlands are disturbed until the wetlands permit is received, and the bond is received in the correct amount for 10 acres, with no more than 10 acres to be excavated, east of the wetlands. All agreements that the applicant has stated on the record this evening apply.

Rex stated that the bond will be received by the end of this week. [Post meeting note – bond was received on December 17, 2021 in the amount of \$250,000]

Hanna seconded the motion.

Noncompliance issues are addressed with the issuance of this new permit.

Excavation Pit Permit application based on the November 3, 2021 plan set was approved with the conditions as stated above. Hanna, Robert, Scott, Margaret, Bonnie voted yet. Patrick was offline at the time of voting.

Voluntary Merger of Lots of Record – Map 106 Lot 017 and Map 106 Lot 015, Scott and Margaret Rice owners.

We received notice of a voluntary merger of two adjacent lots both belonging to Scott and Margaret Rice. This is the Woodstock Station Gift Shop and a parking area behind it “where the yellow house burned down.” This is read into record, no action to be taken.

Vote to receive the merger into record – Hanna, Robert, Bonnie, Margaret, Patrick all voted yes. Scott recused himself from the vote.

Minutes of the November 8th and November 22nd meetings were deferred until the January meeting.

Selectman’s report was deferred until the January meeting.

The bond for the Conn Excavation Pit was received and has been filed.

Other Business

Computer Purchase – Bonnie confirmed that funds from our 2021 Operating Expenses budget were used to purchase a laptop and camera for the purposes of conducting Zoom meetings and storing Board Secretary documents. The total purchase price was a little under \$800, within our remaining budget for 2021.

Update on Staffing – We received a letter of resignation from Margaret as Planning Board Secretary, due to family issues. Hanna agreed to fill in for the three months remaining until Town Meeting, at which point we hope to be able to hire a Secretary who will be able to support all Town Boards. Hanna, Robert, Bonnie, Scott voted to approve compensation of \$30/hr for the temporary Planning Board Secretary position until such time as a Town-wide position could be filled. This is retroactive to September for Margaret.

Budget Amendment – in order to have the budget complete on schedule, Bonnie unilaterally amended the section on consultants to separate out legal from professional consulting, which needed to be two separate line items. This became \$1000 for legal and \$4000 for professional consulting, for a total of \$5000 consulting budget, as previously approved.

Follow up to Public Requests - We received a long letter with a lot of information from John Kimball as a result of his Right to Know request. We will not leave this

unanswered. There is a lot to think about and to consider what we may want to do differently.

Kevin inquired about the status of the Devine property. They have exceeded the size, it requires an AOT. We have not taken action – we do not have information that Caulder Construction intends to apply for a permit. Scott recommends that we send a letter stating that we have reports that material is being taken from the pit without a permit. John asked that a member of the Planning Board verify whether trucks are moving in or out of the area.

We do not have cameras or drones for monitoring. We have not directly witnessed activity at the site. Bonnie will speak with Rex and ascertain his intentions. Devine had a permit, but it does not transfer to Rex – no one has asked for a name change. He will also be notified that he cannot remove material from the site because the 100,000 cu ft limit has already been reached.

Meeting Schedule for 2022 – The meetings schedule for 2022 will continue as had been done for 2021, with meetings on the second Monday of each month at 6pm, unless that Monday is a public holiday, in which case the meeting will be moved to the following week. Veteran's Day will also be considered a public holiday.

Annual Report – This is due on January 17th. Bonnie will prepare a draft for discussion and review at the January meeting.

Meeting Adjourned. 8:02pm