

Minutes of the Planning Board Meeting

Monday August 9, 2021 6:00pm

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

Two members of the public, Wendy Foley and Lori, and Board Alternate Mike Donohue were present on Zoom and the recording was started at 6pm.

Board members Bonnie Ham, Scott Rice, Robert McAfee, Hanna Kinne, and Margaret LaBarge were present in the meeting room.

Pat Griffin and Ben Wilson were absent.

Robert motioned to accept the Minutes of the July 12, 2021 meeting as written. Scott seconded. Hanna abstained. All others present voted to accept & the minutes were approved as written.

6:00 PM Public Hearing - Application for Excavation Permit for Caulder Construction LLC on 277 Daniel Webster Highway, North Woodstock NH. Map 112 Lot 002

This hearing was for an application for excavation permit. Rex stated that we have the paperwork needed. Bonnie reviewed the application. Notices were sent and received by abutters. An application form was completed for Route 3 Daniel Webster Highway, Map 112 Lot 002. Area of permitted excavation 27 acres. Excavated area 8 acres. Depth 20 feet. Materials to be removed were stated, visual barrier of trees. Route 3 used to access: truck traffic daily except weekends. Trucks are 10-wheelers. Abutters list provided. Respiration and erosion controls plan provided. Excavation site plan provided in size 8 ½ x 11 inch. No alteration of terrain permit included.

Bonnie noted that a complete application is to contain 5 full size copies of the excavation site plan and a mylar. The lack of all required copies and the small scale of copies make this not a full application.

Rex stated that copies were in the file already. Bonnie replied that even if the item exists in the file, they must be submitted with the application. The application was submitted 21 days in advance of the hearing.

One of the Caulders asked the question why can't the plans be submitted digitally?
Scott asked for a summary – what are we trying to accomplish?

Kevin Foley (abutter) asked "Sounds like they need an alteration of terrain permit? Should we have an updated Alteration of Terrain in the new application? Does it say Caulder Construction on the new plan or does it still say J&M Donahue?"

Rex replied "It has always said J&M Donahue." He noted that the Alteration of Terrain was done by Horizon Engineers and does not need to be redone every 5 years.

Bonnie stated that we do not have a plan submitted by the applicant. We did receive “a plan” 21 days in advance of the meeting.

Scott noted that if we needed these plans they should have been asked for in advance of the meeting. Hanna asked who approved the application. Ben did. He was unfortunately not present at the meeting to answer these questions, but he was the one who instructed Town Office staff to send the hearing notices.

Scott noted that we do have plans, albeit the wrong size and suggested that we consider a conditional approval on the delivery of appropriate plans.

Casey Caulder noted that it does not make a difference whether the permit is in place as this site is being used only as a stockpile and they are not excavating new material.

Hanna noted that if a prior approval was a mistake, we are not bound to repeat mistakes.

Bonnie stated that under the current Excavation Regulations part of the process is a site visit and these visits are scheduled for the coming month. Last year (2020) we did the site visits in October instead of September because of COVID.

A member of the public asked whether the Board can refuse a permit application even if everything is submitted correctly. Bonnie noted that this can happen if it does not meet state law. And the abutters do have the opportunity to give input as well and the Board takes that into account. Scott noted that abutter input needs to be more substantive than just not wanting a gravel pit and would have to demonstrate that the pit causes unfair disturbance or harm.

James Aliberti, Owner of Maple Lodge Cabins, stated that the Caulders have been good neighbors, he does not have a problem with them. He further stated that these same owners plan to put a gun range in the vicinity of his business.

Scott stated that each application stands on its own merits and we would not discuss the gun range.

Mr Aliberti stated that he had heard of plans to build a new access road to the pit through the guard barrier. He (Aliberti) plans to build a wedding venue and does not want the disturbance of truck traffic. After some heated discussion, the two parties resolved that in fact there were no plans to build another access road. Bonnie thanked the parties for resolving things in a gentlemanly manner and discussion continued.

Bonnie called for any questions directly related to this application.

Kevin Foley noted that he just wanted to make sure that when the application is approved everything is in good order with all i's dotted and t's crossed so that we do not have anyone operating without proper permits in place. For example, we wouldn't let a bar stay open without its liquor license.

Rex stated that Mike Donohue's and Stacy Thomas' permits were approved with the AOT provided and there is no expiration on the AOT. "We should be able to base our application on that same AOT."

Bonnie noted that in our history we have on occasion allowed for conditional approvals, or we could continue the hearing to another time and date to allow Rex the opportunity to provide the materials that are missing.

Scott noted that if all we need are copies of materials that do exist, he did not see any reason why we could not conditionally approve on the requirement that those materials be delivered.

Judith, a community member for 78 years, noted that she was here to support Connie (abutter). Connie tells me things that bother her. Donahue and Thompson always notified her when there was going to be any blasting. One time last year, the ground shook and we didn't know what it was. We were never notified that there was going to be blasting.

Scott stated that we could include that in the permit, that abutters be notified in advance of any blasting.

Connie stated that when it happened she screamed and was terrified. "My pictures went everywhere." Judith repeated that being notified is important and can help with such incidents not being so frightening.

Rex noted that they had hired a professional blaster. He repeated that this particular site is a stockyard and they have no intention of excavating at present. The permit is to keep documentation current so they retain the right to operate in the future if things change.

Bonnie noted that the application should include an estimate of the volume of material to be removed, so they would not have to request an amendment later if things change. We permit a specific volume of material and if it is significantly more that gets removed, that would be out of compliance. Just tell us what the maximum might be so that it goes according to plan.

Bonnie read from the Excavation Regulation to reconfirm the list of items needed for a complete permit application. Scott and Bonnie noted that the pit has already received permits twice before and is currently in compliance.

Robert stated that since through discussion the concerns related to roads and blasting have been addressed and we have the information needed for the permit with the exception of the size and quantity of the plans, he proposes a motion that conditional approval be given pending

receipt of the missing documents as specified by Bonnie. Scott seconded and all present voted to approve.

Bonnie will supply the list within 5 days and a permit will be issued when all documents are received. The 21 day requirement does not apply.

Scott stated to Rex that his application should not have been accepted without the information Bonnie is asking for, that he should not have been told it was complete.

Rex restated that the pit is not currently active.

Bonnie thanked the public for raising their concerns and noted that Rex received some valuable feedback about their viewpoints. Rex noted that the professional blasters had notified the Police Department about the blasting and the police were responsible for notifying the abutters. Judith confirmed that she had spoken to the police and they told her they did not feel it was necessary to notify abutters.

Bonnie suggested that in future we could post blasting schedules on the Town website so that everyone will have a central resource to stay informed.

We will continue the hearing until September 13th at 6:30 pm to ensure that we have time to complete the site visits.

Communication from legal counsel, Laura Spector-Morgan, with reference to development of manufactured housing parks.

Scott noted that he had alerted Rex to the lawyer's understanding about the use of the Devine property so that he would not spend money needed

Ben is supposed to contact Dawn Beuker (sp?) and understand what a "major subdivision" means. Rex's lawyer will be contacting us.

Bonnie – reading from letter – division for rent, sale, lease, condominium conveyance, lots, plats, sites, or other... Stating the second objection, re: other parks that didn't get subdivision approval. This is not determinate of whether this one requires it. If these other parks pre-dated the regulation, or whether there was an error related to permitting one of the earlier parks, we are not bound to repeat that error.

Robert – reading from the letter – "developer may request and the planning board may grant waivers of requirements."

Bonnie – different lawyers will have different interpretations. We need to do some research to make sure we make the correct decisions.

Kevin Foley – asking whether this means we can skip safety and environmental protection requirements? Scott & Bonnie both stated that this is not our intention. We need to clarify what the requirements of this project will be. Scott also noted that Hanna's point is also important that we don't need to re-make older mistakes just because we've made them before. Lawsuits happen because people interpret the law differently.

Public Participation

Judith asked in the context of what she has had to do when buying property. When a property changes hands, don't you have to submit to the town a new title deed with correct owner information? So shouldn't a permit to do something be in the name of the current owner?

Bonnie replied yes, and this applies to abutters as well as the applicant. The public notice announces it to the remainder of the public. Sometimes a project has impact beyond just the abutters.

Shoreland Protection Ordinance Revision

Anything in question we currently refer to the state. This ordinance has become stricter than it was previously. We will have it for review in September.

Other Business - none

Meeting Adjourned at 7:20pm.