

PLANNING BOARD

Town of Waterboro

October 11, 2000
Regular Meeting

I. ROLL CALL.

Susan Dunlap called the regular meeting to order at 7:40 p.m., in attendance are Roland Denby, Everett Whitten, Todd Morey, Dwayne Woodsome and Tim Neill. Absent was Doug Foglio.

II. APPOINTMENTS.

III. MINUTES OF PREVIOUS MEETINGS.

The Minutes of the August 24, 2000, September 13, 2000 and September 28, 2000 Regular Meeting(s) were reviewed by the Board.

With respect to the August 24, 2000 Minutes, Dwayne made a motion to approve the Minutes as prepared. Todd seconds. The Motion carries a unanimous vote in favor.

With respect to the September 13, 2000 Minutes, Dwayne made a motion to approve the Minutes as prepared. Tim seconds. The Motion carries a unanimous vote in favor.

With respect to the September 28, 2000 Minutes - after review, it was found that corrections needed to be made. Tim therefore made a motion that the Minutes be tabled until the next meeting. Everett seconded the motion. However, after discussion, Tim withdrew his motion to table the Minutes and Everett withdrew his second. Tim then moved that the Minutes be approved as revised to be signed at the next meeting. Everett seconded the motion. The Motion carries with a unanimous vote in favor.

Everett leaves and will not be participating in the remainder of the meeting.

IV. REPORT OF OFFICERS.

V. OLD BUSINESS.

Review of Reclamation Plans.

Discussion of the gravel pits was begun. Sue started off by saying that she had a hard time deciphering what the requirements are that the Board must follow. For example, she refers to Section 11.7(d) regarding standing water which reads

“... The Board may require testing of the water in the rehabilitated area for the purpose of detecting unsanitary, unsightly, or odoriferous conditions. ... the Board may require the owner to take appropriate corrective measures:”

She asks, who knows if you will have standing water now. How can we (the Board) judge today what will happen down the road.

Doug Foglio asks what the Board would do when the Ordinance contradicts with State law, for example the regulating of slopes. In addition, there are currently two (2) Ordinances in effect with the Town at this time. How does the Board deal with conflicts of both Ordinances. For example, there are exemptions in the original ordinance which are not in this one. These two ordinances have left the gravel pit owners in a quandary of what they need to file, etc. What happens when reclamation plans to the gravel pits have already been approved - how do you require them to change.

**Planning Board
Regular Meeting
October 11, 2000
Page Two**

Todd, referring to Section 11.7, indicated that we must make our own decision on what standing water is, and actually come to a group decision on how we should interpret all of these Sections before we review the plans and decide on what this nine (9) subsections mean. For example, there are two different references in this Ordinance to the Maine Soil and Water Conservation Commissions Handbook that we must follow, i.e., the 1974 version or the current 1991 version.

Sue stated that it was her opinion that we go to the Town Attorney for insight on how to interpret the Ordinances.

In response to Doug's question, Sue indicated that she believed that if they are already active, they will need to submit a rehabilitation plan.

Doug asked what happens if the pit is grandfathered?

State DEP RED TN @

Todd asked if we have any gravel pits with ~~Condition Use~~ permits already.

Doug replied that he believed we did. That the State has issued permits to these gravel pit owners following inspection by the State of the pit and after it finds that the pit meets the requirements and regulations. The State then notices the Town and following the mandatory 30-day waiting period, then issues a Registration number to the pit.

Sharon Lane asked what the Board will do with the contradiction in Section 6 which indicates that grandfathered status.

Sue indicated that the question was appreciated but unless it pertains just to the reclamation plan issue, we cannot begin to address or answer any other questions until clarification from the Town Attorney is provided. Sue further indicated that she believed the people who had obtained Conditional Use permits from the Town prior to the enactment of the 03/11/00 Ordinance were exempted.

Ron Dearborn indicated that he had bought his pit off Hughey's and thought that it was grandfathered. He had gotten approval from DEP to build the pond and did so in conformance with DEPs regulations and specifications.

Todd stated that when a gravel pit owner apply for a State license the Town is provided with written notice. The Town is supposed to post that Notice for 30 days and to object to the application within that time frame. If the Town does not respond with the that time frame, the State approves the application and a license is issued. In his opinion, if the gravel pit owners have gone through the State process prior to 3/11/00 and the Town did not respond or object, then the Town has given up the right to contradict the State's license.

Doug indicated that the Town receives the notice and is to put it in public view for 30 days. The Town or anyone else needs to notify DEP within 30 days of any objection. If no objection is received by DEP then the Town has approved this by virtue of its inaction.

Dearborn - someone needs to make a judgment on this.

Sue reiterated that both of these Ordinances contradict each other, they have illegal things in it and even reference an outdated Handbook to base its information on. We (the Board) must use the most strict portion of the ordinance in its determination, but what would that be?

**Planning Board
Regular Meeting
October 11, 2000
Page Three**

Dwayne moved that a 15-minute break be taken to allow the Secretary to retrieve certain information from the files upstairs. Todd seconded. The Motion carried with a 4-0-0 vote in favor. The Board broke at 9:35PM.

The Board reconvened at 9:50PM. Roland indicated that the Board need to get a copy of the Zoning Board of Appeals' decision on the ordinance. (The secretary will get a copy.)

Sue suggested that the Board take no action until it knows what the State law says regarding licensing, etc. and we can find out what the rules are regarding the State's rehabilitation plans. We need to ask the Town Attorney what the law is in that regard. We cannot go anywhere until we know what we can and cannot do - therefore, we cannot do anything on this issue tonight.

Todd asked if there would be a copy in the files. Doug indicated that everyone that applied was in the Planning Board office files, however, files have mysteriously disappeared up there in the past.

Todd asked Mr. Dearborn to get the Board a copy of what was filed by him with the State.

Dwayne indicated that we have two (2) pictures here; we have 2 owners with DEP permits and 1 who is grandfathered in compliance since the 1960s but who needs to know how much more he needs to do. Do we have answers enough to tell him what he needs.

Dearborn - With respect to Section 11.7(e) regarding a bond or insurance. We come into contradiction here too with DEP and the Town requirements. DEP requested that a small pond be built (180x64) on the back side which has 30 acres.

Sue indicated that the Board would not force someone to have insurance for a pond that may not be built.

John Jewitt asked if he needed a gate, where he could get a copy of the 1974 Handbook that is referred to in the new Ordinance and what about vegetation.

Todd indicated that the 1974 Handbook was no longer in effect, that the 1991 version is the current text.

Sue indicated that she also had questions on how the owners are to comply with Section(s) 11.8 and 11.9.

Dwayne suggested that we should probably have a workshop with the Town Attorney on these many unanswered questions.

It was decided that no further action would be taken by the Board until clarification by the Town Attorney was given regarding these outstanding issues.

All other attendees departed with the exception of John Jewett. The Board then sat down with Mr. Jewett to review his preliminary rehabilitation plan.

There was much discussion regarding the existing pit, which has trees already, and that he is not doing anything there. That there is a 50' slope from the sideline, grubbing, etc.

Dwayne asked if we are to grant a 1,2 ... year permit or have him come back every year. Do we need a performance bond of what it will cost to reclaim the land.

**Planning Board
Regular Meeting
October 11, 2000
Page Four**

Sue believed that one would be needed for each phase. Dwayne indicated to Mr. Jewett that he would need to determine his phases. Sue elaborated further that Mr. Jewett would need to tell the Board how much it will cost him in order for a determination of the amount of the bond is made.

Dwayne told Mr. Jewett that he would need to locate the Hanson's well and the Roberts' well and put that on the map. The well needs to be 400' from the well to the site or 200' if it is an artesian well. Mr. Jewett will have to monitor the well part of the rehabilitation plan.

The following statements/conditions are to be placed on the plan:

- All stumps, grubs shall be removed from the site or buried or destroyed.
- A vegetative erosion and sediment control plan shall meet the minimum requirement established by the Maine Soil and Water Conservation Commission as specified in the "Maine Erosion and Sediment Control, On Commercial, Industrial, Residential, Recreation, and Governmental Sites Environmental Quality Handbook", dated 1991. 1974 SD. SW (LSD) TNA
- All loamed, seeded, and planted areas shall be guaranteed for 18 months.
- A visual and acoustical buffer between the project and adjacent properties shall be provided.
- A natural 50' buffer between the Hanson property shall remain for the life of the project.
- All exposed slopes shall be graded and planted, loamed, seeded or otherwise landscaped. Sufficient topsoil shall be retained to cover all areas. (The Board requested that the statement be specific as to what will be done with the topsoil.)
- A gate will be drawn on the plan on all access roads and a statement that it will be closed and located and a sign posted shall be made.
- The owner shall maintain the property in compliance with the rehabilitation plan.
- The site must be 400' from the well to the site or 200' if it is an artesian well located of the Roberts property and the Hanson property.

Sue indicated that in her opinion Mr. Jewett was exempt from Sections 7, 8 and 9 of the Ordinance as his pit is classified as "active status". The question was raised, among others, of whether a public hearing would have to be held on the final plan prior to its approval.

After a brief discussion, Dwayne made a motion that we approve this plan as Mr. Jewett's "preliminary plan". Todd seconds. Sue indicated that we needed to understand what this all means, how to interpret the ordinance, prior to voting on this. Why not vote that he does not need a preliminary plan, he does not have a finished plan yet. There was additional discussion on this issue. Tim felt that the Board could not accept this proposal without a public hearing. Dwayne felt that any Conditional Use permit should be issued under Section 4.04 of the old ordinance. Dwayne subsequently withdrew his motion and Todd his second.

VI. COMMUNICATIONS.

VII. MISCELLANEOUS.

VIII. NEW BUSINESS.

**Planning Board
Regular Meeting
October 11, 2000
Page Five**

IX. ADJOURNMENT.

Dwayne then made a motion to adjourn. Todd seconded. The motion carries a 4-0-0 vote in favor. The meeting is adjourned at 10:20PM.

Respectfully submitted,

Dwayne Woodsome
Dwayne Woodsome,
Secretary/Treasurer
Planning Board

ACCEPTED: _____

Allen Dunlap
Chairman

Richard E. Dealy

Eric Smith

[Signature]

