

## PLANNING BOARD

Monday, July 13, 2009  
Belmont Corner Meeting House  
Belmont, New Hampshire

Members Present: Chairman Peter Harris; Gary Flack, Ward Peterson, Claude Patten and Christine Long.  
Members Absent: Jon Pike and Russ Davis.  
Alternates Present: William Rollins and Reginald Caldwell.  
Alternates Absent: William Otto.  
Staff: Candace Daigle, Rick Ball and Elaine Murphy.

The chairman opened the meeting at 7 p.m. and appointed W. Rollins and R. Caldwell as voting members for tonight's meeting.

### **PUBLIC HEARING: PROPOSED EARTH EXCAVATION REGULATIONS AMENDMENTS:**

P. Harris wanted to thank staff, the Board and members of the excavation community for working together to bring this draft of the Earth Excavation Regulations before the public tonight.

C. Daigle also wanted to thank Mr. John O'Connor, Mr. Shawn O'Connor, Mr. Brian Donovan, Mr. Bill Nutter, Mr. Howard Warren and Ms. Karen Feltham for all their input to make this a well-rounded document. The Board has tried to make the regulations reasonable and will amend them if there are any rough edges. She explained that the original regulations were enacted in 1974 before zoning.

Mr. Mark Mooney stated that he is having problems with the regulations for minor projects involving 2 acres or less. In the first public hearing they had a discussion about them that caused the Board to have a second and now third public hearing. Minor projects have been nullified by the restrictions put on them and the way this regulation is written. Anyone undertaking a minor project has to spend a lot of money for a minor 2 acre project that has a maximum depth of only 20' and has to be 100' from abutting properties. Other excavation projects only have to be 50' from property lines. That a minor project can only excavate 10,000 cubic yards a year makes no sense. At the end of the project they cannot do any other excavation for five years from the time they receive their certificate of compliance. They are eliminated from doing another project on that site. The previous discussions allowed for minor projects under 2 acres to work the 2 acre area and reclaim it then open up another 2 acre section. He is disappointed that a better method for minor projects was not drafted.

Mr. Mooney stated that he also has an issue with the fee schedule. Now the fee schedule is between \$200

and \$2000. He thought they were controlled by 155-E and limited to \$50. How does the Board set their fees? It is important that property owners with gravel on their property not be restricted because of the cost. Now the restrictions are unreasonable and can put minor projects out of business. If the Board accepts this regulation it will take away property owners rights. They are such that small operators will not be able to live and operate with this document.

P. Harris stated that they have made every effort to define small and large pit operations and define the work associated with those operations. They have worked with the excavators to design regulations that are fair.

Mr. John O'Connor stated that he understood the concern for not excavating closer than 100' to the property line but the 50' restriction is required by the State as the 10' friendly abutter setback was challenged. He understands that on a 2 acre lot having to be 100' back all the way around the property is hard on a 2 acre lot. The yardage is also hard on 2 acres. He explained that approving abutter's written permission to excavate within 10' of a property line instead of the 50' can be changed at anytime. C. Daigle stated that the reason for the 100' requirement on the small lot is because they don't have to bring in a survey, soils map & report, topo, aquifer plan & report or as-built plans.

C. Daigle explained the proposed fee schedule is lower than the current fees. The current excavation filing fee is \$500 for the 1<sup>st</sup> acre and an additional \$200 per disturbed acre above the 1<sup>st</sup> acre. The proposed fees would be \$200 for sites less than 2 acres, \$500 for 2+-25 acres, \$1000 for 25+ -50 acres and \$2000 for 50+ acres. She explained that fees are for the amount of work that is required for the review process.

G. Flack wanted to know why the 20' depth limitation. C. Daigle stated that if they provided more information, a survey, topo soil report, then that requirement can be waived. R. Caldwell stated that without a survey they could end up on someone else's property that is the reason for the 100' setback. Mr. Mooney stated that most landowners know where their property lines are. Most of the properties in Belmont are surveyed. The 10,000 cubic yard limitation makes no sense. The 100' setbacks are not what was discussed. C. Daigle stated that requirements are all waivable if they provide additional information to support a waiver.

W. Peterson stated that they could disturb 2 acres then reclaim it and disturb another 2 acres. C. Daigle stated that is not how the regulations are written because then they could excavate the whole site on a 2 acre permit. W. Peterson stated that 30 acres could be excavated 2 acres at a time and that would not be a minor project. Mr. Mooney stated that at the first public hearing they discussed that if they excavated no more than 2 acres at a time then reclaimed it they continue to operate throughout the project. He disagrees with having to wait for five years before you can do anything else. The mom and pop operation or the farmer doesn't need to spend the money for a regular project just to work on 2 acres then reclaim it. W. Rollins stated he interprets it that the cubic yards is the restriction. You can reclaim behind you and the restriction is that you don't excavate more than 10,000 cubic yards and don't have more than 2 acres open at one time. The way it is written is as long as you only have 2 acres open then you can keep working. P. Harris stated then you would have to meet the criteria for a larger

operation. Mr. O'Connor stated it would be 10,000 cubic yards a year. W. Peterson stated that 10,000 cubic yards is a lot. Mr. O'Connor stated that if they could do the 2 acres and reclaim it then open another 2 then it would be cheaper for them to do it as a minor project than go through the permitting process for excavation. Mrs. O'Connor stated they could do a little here and there as long as they do not have more 2 acres open at one time. C. Daigle stated that if that is allowed then there would be no need for the rest of the regulations because everyone would come in under the 2 acre minor project requirement. R. Ball stated that would also be hard to do with the State Alteration of Terrain Permit. Mr. Mooney wanted to know how that would be because the State is not bothering with subdivisions. You have to excavate 100,000 cubic yards before they get involved. R. Ball stated that they are looking at the whole project now not just phases. W. Rollins stated that the new regulation went into effect January 1<sup>st</sup>. Mr. Brian Donovan agreed that the new regulations look at the total project not just the phases. Mr. Mooney stated that he hasn't done a subdivision since January.

P. Harris wanted to know if everyone is satisfied with the document as written. The fees have been changed to be less because they are based on excavation and not on site development. A lot of staff time and input from excavators has been involved to bring this document to where it is. C. Daigle stated that they never had an application for small site. If it is not workable then the Board can amend the text at that time.

Mr. Donovan stated that they are all thinking in terms of sand and gravel but ledge is considered reclaiming a site. If they have a 2 acre site with ledge the ledge is considered being reclaimed and the site could have more than 2 acres open.

P. Harris wanted to know what the depth of blasting is. Mr. Donovan stated you can go as deep as you want but it is expensive typically it is at 50' benches. W. Peterson suggested that they add something to the minor project definition to clarify the restrictions. C. Daigle explained it is listed under what is exempt to be considered a minor project. W. Peterson stated that if additional information is brought forward some things can be waived based on information provided. They have to be consistent so people will not think that they can excavate 2 acres at a time so they don't have to meet the other requirements.

G. Flack stated that they could take an excavator and do a test pit. 20' depth is too restrictive. Hog backs are where all the minerals are. C. Daigle stated they have to be fair to all those who have to meet the regulations. G. Flack stated that it is better to go deeper instead of all around the property. C. Daigle stated that is something the applicant needs to discuss when they come before the Board. The regulations contain all waiver rights as do other regulations. W. Peterson stated that if they bring in additional information they can waive some of the restrictions. They have to cover all the bases for the small pit project so that a commercial pit doesn't come in and try to meet only the minor project requirements by only opening 2 acres at a time. There is a place to waive requirements based on information brought to Board. C. Daigle stated that they can meet somewhere in between for those operations that need a middle ground.

MOTION: C. Long moved to accept the Earth Excavation Regulations as written.

Then motion was seconded by G. Flack and carried (7-0)

**BOARD'S ACTION-MINUTES:**

**MOTION:** On a motion by C. Patten, seconded by C. Long, it was voted to approve the minutes of the June 22, 2009, meeting as submitted. (4-0-3) W. Rollins, G. Flack and R. Caldwell abstained.

**STAFF REPORT:**

**YOUSEFF SITE PLAN TAX LOT 102-011:**

The chairman signed the site plan and Notice of Decision for Susan A. Youssef Trust.

**EARTH EXCAVATION REGULATIONS:**

The Board signed the certified copies of the Earth Excavation Regulations.

**HENRY DIONNE, JR. TAX LOT 230-041:**

C. Daigle stated that Mr. Henry Dionne wanted to know if he could sell golf carts under his boat sales site plan. C. Long wanted to know if he has met the conditions of that approval. C. Daigle stated that he still has outstanding conditions to meet as part of the approval. R. Caldwell stated that he can come back to the Board regarding the question when he brings the site into compliance.

**CAPITAL IMPROVEMENT PROGRAM (CIP):**

C. Daigle explained that the Department Head request for the CIP is due August 14<sup>th</sup>.

**BELMONT HARDWARE TAX LOT 122-122:**

C. Daigle stated that she has meet with the owners of Belmont Hardware about their storage racks and discussed their options with them. She stated that they need to appeal to the Zoning Board of Adjustment (ZBA) for relief. They would like to meet with the Board to discuss their situation. The Board agreed to meet with them as long as they understand that they cannot grant them any relief. They will have to go to the ZBA for that. C. Daigle stated that she will let them know and set up a time to meet with them at the beginning of the next meeting.

**WORK LOG:**

C. Daigle asked the Board if they wanted her to continue sending her work log to them. It was the consensus of the Board that it is not necessary. She stated she will keep them.

**HEITZ AUTOMOTIVE TAX LOT 224-038:**

C. Daigle asked if the Board had any second thoughts on the building permit for the carport at Heitz Automotive as an accessory to the car lot. The Board directed her to proceed.

**PROPOSED SUBDIVISION AMENDMENTS:**

C. Daigle explained that the primary reason for updating the subdivision regulations is to upgrade the

road construction standards. The proposal has been reviewed by Town Counsel and town engineer and there are only minor changes. Most of the road constructions specs are already being used by developers.

**ADJOURNMENT:**

**MOTION:** On a motion by C. Patten, seconded by W. Peterson, it was voted unanimously to adjourn at 8:25p.m. (7-0)

Respectfully submitted,

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Elaine M Murphy  
Administrative Assistant