

PLANNING BOARD

Monday, June 8, 2009
Belmont Corner Meeting House
Belmont, New Hampshire

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

The chairman opened the meeting at 7:02 p.m.

BOARD'S ACTION-MINUTES:

MOTION: On a motion by C. Patten, seconded by C. Long, it was voted to approve the minutes of the April 27, 2009, meeting as submitted. (3-0-1) G. Flack abstained

MOTION: On a motion by C. Long, seconded by P. Harris, it was voted to approve the minutes of the May 11, 2009, meeting as submitted. (2-0-2) G. Flack and C. Patten abstained.

STAFF REPORT:

WJK REALTY TAX LOT 224-038:

C. Daigle explained that Mr. Hutchinson had asked to eliminate any further improvements and to keep what is already on site. The chairman signed the Notice of Decision for the change of conditions for WJK Realty.

BLUE SKY ENTERPRISES, INC. TAX LOT 231-014:

The chairman signed Earth Excavation Repermitting Notice of Decision for Blue Sky Enterprise gravel pit on Hurricane Road.

HENRY DIONNE TAX LOT 230-041:

The chairman signed the Notice of Decision and Site Plan for Henry Dionne at 730 Laconia Road.

AQUIFER PROTECTION:

C. Daigle stated that she met with Code Enforcement Officer, Steve Dalton, to update the aquifer lots. There are 94 lots in program. Additional lots have been added this year that were not picked up last year. Some lots have been dropped because there is no hazardous material on site.

Last year there were 53 lots inspected and this year 11 sites have been done. In 2009 the inspections have been modified so that if there has been no change to the site a self inspection can be done. Those not inspected last year will be automatically inspected this year. C. Daigle stated that she will make personal phone calls to the property owners that have not responded to the aquifer inspection letters. To date only one site had problems and they have been brought into compliance.

PROJECT TRACKING:

C. Daigle explained that after a project receives approval there has been a problem with the applicant's engineers not being on site and doing inspections. To keep the cost of the project down the engineers are not on site. When it comes to releasing money because a portion of the project is complete the engineer cannot certify the site because he was not there during construction.

A new process will require that engineers meet with staff and sign an inspection checklist to ensure that the project is done according to the approved plans.

A checklist has been developed for gravel pit reports to help standardize those reports.

DES:

C. Daigle explained that DES has implemented a new rule requiring any addition to any structure has a new septic design. That includes all construction whether it is a deck or garage etc. In July they will be coming out with a new ruling that may change the need to include a septic design for enclosed living space instead of all additions. Until the ruling has been reviewed Belmont will continue to operate the same way as they have. They will send anyone with a bedroom addition to DES and those not adding bedrooms will be handled at the town level.

HEAVENLY SONSHINE DAYCARE TAX LOT 122-022:

C. Daigle stated that Heavenly Daycare located at 47 Church Street had received site plan approval to build a two-story daycare with a temporary playground. The playground was not completed and now they would like to move the playground so that it is adjacent to the Church because the soil in the playground is not appropriate for a playground. The new location would be on the same side as the daycare so the children would not have to cross the driveway. The playground will be fenced in.

It was the consensus of the Board that this is a minor change and will improve safety by not having to cross the driveway.

WELL HEAD PROTECTION:

C. Daigle stated that the tri-town Aquifer Protection Committee has been using Belmont Aquifer Protection Ordinance as model to protect ground water. The State has suggested an option to protect the municipal wells outside the aquifer. The Board wanted to know how many businesses would be affected by adding a municipal protective well head area. Using the map C. Daigle showed the two areas that would be affected and stated it would not affect any new businesses. Several lots have been added to the protective area but they are residences and not businesses.

It was the consensus of the Board to proceed with the municipal well head protection areas and hold a public hearing in the fall.

EARTH EXCAVATION REGULATIONS:

C. Daigle went over the proposed changes to the Earth Excavation Regulations that were a result of the meeting staff had with the gravel pit operators.

Preserve existing recreational trail corridors. The owners are willing to accommodate public recreational trails while they own/operate the excavation but don't want to be required to maintain the trail if it doesn't work with the use. The suggestion is to reword the ordinance to "preserve existing recreational trail corridors when the use can be accommodated within the proposed property use".

The definition section should be Article 15 not 13.

The excavators discussed approving and disapproving abutters. The Local Government Center Counsel stated that an abutter should be considered disapproving for the purposes of setback requirements. In order for an abutting property owner as approving the abutter must take some affirmative action to inform regulator. Article 2E will be rewritten to adopt this opinion.

The plan scale should be written to state that all prints shall be at a scale to be useable and legible, 50 or 100 scale preferred. For larger sites requiring multiple sheets an overview sheet shall be included showing the full extent of the proposed operation.

NRCS no longer reviews reclamation plans therefore Article 6E2 should read reclamation plan shall be accompanied by estimated cost per acre for reclamation based on the industry standard costs to reflect the entire cost of the reclamation process without any credit for owner/operator participation with materials, equipment or labor.

The excavators discussed the fact that there is no need for soils typing in an area where the soil is going to be removed. A suggestion for Article 6E4 would be to rewrite the section to require that wetlands and waterbodies be identified. It also should state that the Board may require on-site soils typing in conjunction with the construction of stormwater management facilities or for other such purposes.

There was discussion on the meaning of adjacent to an aquifer. The definition should be for properties located on, or within 40' of an aquifer.

The committee discussed requiring a stormwater management plan and report. If a site is designed to keep all runoff on the site then a stormwater management plan and report should not be necessary. Article 6E8 will read for sites where all stormwater will not be contained on site or in other circumstances where environmental issues may arise, some or all of the following information may be required. This would change the reference to the Stormwater BMP manual to the new NH DES manual.

The excavators discussed the requirement to submit photos of the entire site because it is not realistic to require photos within wooded areas. Staff suggests that they delete “c” and let those areas be covered by “e – additional pertinent photos.

Article 6F5 should be evidence of permits required by other agencies or Town departments shall be submitted prior to plan signing because the excavators don’t have the other permits in hand when they make their application to Belmont.

The ordinance will delete the section requiring a copy of MSHA permit because this is a compliance agency not a permitting agency.

The excavators discussed repermitting or renewing a permit vs reviewing a permit. They explained that they invest a lot of money into the site and the threat of a permit not being renewed is a concern for the excavators. Some suggestion included submitting the annual report to the Board by the excavator in September; and the annual inspection by staff based on that report. Instead of “repermit” or “renew permit” a “compliance review” would be held by the Board on the same schedule as their DES permit with all abutters noticed. If in compliance they can continue to excavate, if not, the excavator submits a schedule to come into compliance or the Board requests some level of enforcement. The Board can also hold a review any time there is evidence that a site is not in compliance. An operation that is grandfathered from needing a permit or requiring a DES permit will be set up so that they are reviewed every five or six years. Even pits that are grandfathered and don’t need a permit still must be reviewed for the State Operational and Reclamation standards they must comply with.

The committee discussed not needing an engineer to review the plans. A suggestion for Article 10C 5th paragraph is The Board may require a review of such estimate. The cost of such a review shall be borne by the applicant.

Article 10-G deals with the timing and content of annual report. The excavators felt the existing report is too cumbersome. They felt that staff should create a checklist for the excavator to report on and a checklist for the town inspector to use and allow evidence such as updated aerial photo to be used. Staff suggests the report be due annually October 1st instead of April 1st.

The process of repermitting changed to compliance reviews and includes an application form, compliance review fee, updated noticing list and mailing documents, noticing fee and scheduled annual report. In evaluating compliance the Board shall evaluate conformance to conditions of approval, confirm that the operational impacts of the project conform to the description and commitment offered during the permitting process, evaluate security and evaluate need for any additional information.

For sites in compliance with all applicable regulations and conditions the Board shall set the schedule for the next required Compliance review.

For sites found not to be non-compliance, the applicant shall submit to the Board for approval a schedule of action to cure identified non-conformities. Where such a plan is not submitted and. Or when a schedule of corrective action approved by the Board is not followed, the Board may take any and all enforcement action permitted by these and other applicable Regulations, Ordinances and Laws including, but not limited to excavation Permit revocation. Revoked permits shall not be reinstated. A proposal to continue excavation activities requires a new application for a new permit under existing regulations.

Article 12.I deals with small operations needing to operate on weekends. Unusual circumstances might also include any sized site providing sand to a night-time state highway paving operation. A rewriting of this section could be hours and days of operation shall be as approved by the Board. The Board may approve hours for both usual and unusual activities. The Board shall make this determination based on their evaluation of: comments from abutting property owners; the proximity of developed properties; whether those properties are residential or non residential; whether abutting residential properties are conforming or nonconforming as to use; the effectiveness of noise and/or light buffering between the excavation site and developed properties; the level of noise and light to be generated during traditionally quiet times (nights, weekends and Holidays); whether the operator has taken all reasonable steps to mitigate off-site impacts (noise & light reduction equipment, distance, buffering etc.);uses that may be permitted under “unusual circumstances”, i.e. night time public highway paving projects.”

C. Daigle stated that the excavators appreciated the opportunity the Board gave them to be part of drafting the new regulations and being part of the process. P. Harris stated that the process of involving the people affected by the regulations, staff and the Board is the best of both worlds.

C. Long wanted to know what sites were exempt from permitting. C. Daigle stated those used for road building or stationary manufacturing. If a site is found to be grandfathered they will still have to be reviewed. A grandfathered site is one that was operating in 1979 and hasn't stopped for more than two years and had filed a report in 1989.

MOTION: G. Flack moved to accept the changes as written and schedule a public hearing. The motion was seconded by C. Long and carried. (4-0)

C. Daigle stated that she will schedule the Public Hearing for the July 13th worksession.

ADJOURNMENT:

MOTION: On a motion by C. Patten, seconded by C. Long, it was voted unanimously to adjourn at 8:13 p.m. (4-0)

Respectfully submitted,

Elaine M Murphy
Administrative Assistant