

Meeting Minutes
May 5, 2015
JK, CE, BD, JP, SB, DA, HK, CW, KS, SH

**PLANNING BOARD
RINDGE, NEW HAMPSHIRE
May 5, 2015**

DATE: May 5, 2015 **TYPE:** Public Hearing **APPROVED:** 6/2/2015 w/attachment
TIME: 7:00 pm

CALL TO ORDER:

ROLL CALL MEMBERS: Bruce Donati, Jonah Ketola, Charlie Eicher, Jason Paolino, Sam Bouchie

ROLL CALL ALTERNATES: Cheves Walling, Holly Koski

ABSENT: Phil Simeone

EX OFFICIO: Dan Aho

PLANNING DIRECTOR (Interim): Kirk Stenersen

PLANNING SECRETARY: Susan Hoyland

APPOINTMENT OF ALTERNATES: Holly Koski for Phil Simeone

OTHERS PRESENT: Rick Kohlmorgen, Larry Cleveland, Kelen Geiger, Ellen Smith, Ken Smith

Pledge of Allegiance

Vice Chairman Bruce Donati called the meeting to order at 7:00 PM and appointed Holly Koski to sit for Phil Simeone

Announcements

Vice Chairman Bruce Donati said that he would like to review Section XII-3 of the Rules of Procedure.

SECTION XII RECORDS

3. Recordings of Planning Board meetings conducted in accordance with state law are permitted. However, the Board asks that the recorder notify the chairman at the start of the meeting of any such recording as a courtesy to the audience.

Vice Chairman Bruce Donati asked if anyone in the audience was recording this meeting. Kelen Geiger said that she records all meetings she attends, and is recording this evening.

Approval of Minutes

1. April 21, 2015

MOTION: Jason Paolino moved to approve the minutes of April 21, 2015 as written. Jonah Ketola seconded the motion. **Vote: 6-0-1** Holly Koski abstained.

New Business/ Public Hearings

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CONSIDERATION OF an application for renewal of a permit for Earth Removal/Excavation submitted by Richard Kohlmorgen. The applicant is seeking to remove 13,500 cubic yards of material at Map11, Lot 1-1 located at 220 Woodbound Road in the Residential-Agricultural District. The landowners of the property are Richard and Janet Kohlmorgen.

Planning Director Kirk Stenersen provided the Planning Board with the plan set that was approved in 2012. He said that our ordinance requires that excavation permits be issued for one year. The prior approval was for two years. It was issued on September 18, 2012 and expired on September 18, 2014. Kirk Stenersen said he informed Rick Kohlmorgen that his permit was expired and Rick has applied to renew the permit.

Interim Planning Director Kirk Stenersen said that 6,340 cubic yards have been removed in 2012, 2013, and 2014. There is approximately 7300 cubic yards of material remaining. Kirk Stenersen said that he met Rick Kohlmorgen at the site and viewed excavation areas 1 and 2. Excavation area 2 is depleted and they have started on area 1. Due to economic conditions, there has not been the need that Mr. Kohlmorgen anticipated and he will need more time to sell this gravel and sand.

Kirk Stenersen said that he saw no issues with this application in regard to completeness.

Board members asked the following:

- Jonah Ketola asked if state permits were required. Rick Kohlmorgen said that this is a small pit and no state permit is required. Kirk Stenersen said anything over 100,000 sf requires an alteration of terrain permit and this is less than that.
- Sam Bouchie asked if Mr. Kohlmorgen anticipated finishing this this summer. Rick Kohlmorgen said it would take about two years.
- Jonah Ketola asked if the gravel is staying in town. Rick Kohlmorgen said within a 15 – 20 mile radius.
- Jason Paolino asked about erosion control. Rick Kohlmorgen said they are utilizing silt fence and berms.
- Dan Aho asked what kind of material they are excavating. Rick Kohlmorgen said lots of sand and good chunk gravel.
- Vice Chairman Bruce Donati asked what roads are being used to move this material. Rick Kohlmorgen said that trucks go from his driveway to Woodbound Road, to South Woodbound and down Route 202.
- Sam Bouchie said the original approval spoke to thirty truckloads a day. He asked if Rick Kohlmorgen was doing that. Rick Kohlmorgen said that they moved a total of 95 loads for the year 2014.

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- Vice Chairman Donati said that, according to the ZBA Variance, Mr. Kohlmorgen was allowed a total of 13,500 cubic yards and that a good portion of that has already been moved. Bruce Donati said by his figures, he shows 7160 cubic yards remaining to be moved.

Vice Chairman Bruce Donati said that he had received an email from Susan Hoyland with a request from Phil Simeone that ConCom be afforded the ability to arrange for a site walk. Vice Chairman Bruce Donati asked if anyone in the audience was here this evening to speak for ConCom. No one was in attendance.

Interim Planning Director Kirk Stenersen said that ConCom had reviewed this original application and based on documents in the file, their concerns were addressed in 2012. Cheves Walling asked if there was a change to property lines. Rick Kohlmorgen said there has not been and the closest abutter supplied the Planning Board with a letter approving the application in 2012.

MOTION: Jonah Ketola moved to accept the application for renewal of a permit for Earth Removal/Excavation on Tax Map 11, Lot 1-1 submitted by Richard Kohlmorgen as substantially complete. Sam Bouchie seconded the motion. **VOTE: 7-0-0**

Vice Chairman Bruce Donati read into record a letter received from a resident of Woodbound Road. The writer did not identify him or herself. The letter spoke to dump trucks travelling the road, 3 to 4 in any given hour and the impact it has on this residential neighborhood. The writer asked the board if this would be ongoing forever or if an end was in sight for this commercial activity in a residential neighborhood.

Sam Bouchie said he had a problem with this letter as it was not signed with the writer's name and address and could have come from anywhere.

Vice Chairman Bruce Donati opened the public hearing and asked for any abutters to speak. There were no abutters in the audience. Vice Chairman Bruce Donati asked other interested parties if they would like to speak to this application.

Ken Smith, 176 South Woodbound Road addressed the Board. He said he lives on the corner of Woodbound and South Woodbound Road and has lived in Rindge for about 30 years. After moving into this property, he said he noticed a long constant line of dump trucks going by his house. He said he just assumed that someone was building a house and it would end soon. He said many of these trucks do not use the brakes, but rather downshift, which causes his house to shake. When Mr. Kohlmorgen's application was filed two years ago, Mr. Smith said that he had written to the Board and asked if the truck drivers could use their brakes, rather than downshifting. While he believes that people have a right to do what they want with their land, he said that these trucks were passing his house 28 times in a single day starting at 7:00AM. He asked how much longer this would be going on and requested that Mr. Kohlmorgen work to finish this excavation so that the truck traffic will lessen in the neighborhood and this will be over with. Mr. Smith said that based on the numbers

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we are seeing, this could be completed in 10 days and he doesn't want to see this go on for another two years.

Ellen Smith of 176 South Woodbound Road said that has she went back through the files and saw that the ZBA had granted a variance for 13,500 cubic yards of material. She said she also looked at the assessing records and is having some trouble with the math. She agreed that in 2012, 324 cubic yards of material was removed; in 2013, 3983 cubic yards was removed; in 2014, only 1322 cubic yards of material was removed. She said this doesn't agree with the numbers that are being used this evening. She said, according to assessor's records, there is still 7971 cubic yards of material left,.

Ellen Smith asked the Board if they would consider amending the application to state 7971 cubic yards of material for the renewal and not 13,500 cubic yards as it currently states. Planning Director Kirk Stenersen said that the simplest way to address this would be to make a note as part of the conditions that the total amount to be removed will not exceed 13,500 cubic yards. He said he has a problem changing the amount on the application to 7971 cubic yards as the plans state a total of 13,500 cubic yards.

Kelen Geiger, Spruce Avenue, said that she wanted to be sure that the conditions that were placed on this in 2012 will be the same conditions used now in 2015. Kirk Stenersen said that the subsequent conditions will be the same; and that the precedent conditions have already been met and will not need to be repeated. Kelen Geiger asked if there was any reason why area number 2 could not be reclaimed before starting on area number 1. She said the sooner this is reclaimed and established, the less issue with runoff.

Ellen Smith said that Mr. Kohlmorgen has been excavating on this site since 2004 and she asked if the Planning Board could put some time limit on this, so that it will be over soon. Ken Smith said that they are not saying don't do this, they are neighbors, they are just asking that this be completed soon.

Larry Cleveland, Woodbound Road, said he is trying to understand the math that is being reported. From his figures, he would think that 1100 loads (assuming 16-18 cy per truck) could be completed in about 37 days. He said that where this has been going on for all these years, and we are hearing about 28 – 30 loads per day, something isn't adding up.

Planning Director Kirk Stenersen said that the issue here is that Mr. Kohlmorgen has to be able to sell this to move it out. He said that if there are that many trucks going up and down the road, they must not be filled. Kirk Stenersen said that he visited Mr. Kohlmorgen's excavation site and it appears that about half of the material has been removed.

Jonah Ketola asked if the neighbors had tracked these trucks. Mr. Smith said that it is the same truck, a VanDyke truck. Mr. Kohlmorgen said that the maximum trucks he has for any given day in 2014 was 7-9 truckloads. Jonah Ketola said that based on the number of trucks being reported, they must not all be coming from Mr. Kohlmorgen's pit.

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Jonah Ketola asked if the site that is completed could be closed and reclaimed and then proceed on to the next site. Perhaps it is an area that is needed for turning around? Mr. Kohlmorgen said that is the plan for the next few months, to close out area number 2.

Dan Aho said that this is the season for excavations and that the area to be reclaimed should be done by the end of the year so that Mr. Kohlmorgen can focus on selling this material during the season.

Jason Paolino said that what he is hearing is the applicant wants a two year extension on this and the neighbors are looking for a shorter period. He asked how difficult it would be to approve this for a shorter period of time, perhaps three to six months? Planning Director Kirk Stenersen said that if the material is not sold, you cannot move it. Jason Paolino said if there is no need, why approve this for two years? Why not wait until he has a buyer, and then approve it for a shorter period of time?

Vice Chairman Bruce Donati asked the Board how they wanted to handle the ConCom request as no one from ConCom is in the audience to address the Board. Charlie Eicher said he is of the opinion that they did make a formal request via Phil Simeone and while he doesn't understand why no one is here to speak to it, he would like to give ConCom an opportunity to do a site walk. Vice Chairman Bruce Donati said he personally has no issue with ConCom visiting the site, but would want it done within a specific period of time to expedite this process.

Dan Aho asked Mr. Kohlmorgen how he was marketing this. Mr. Kohlmorgen said that his subcontractor, Van Dyke, was handling that. It is Van Dyke's excavating equipment that is on site and if someone should contact Mr. Kohlmorgen to purchase this, he would let Mr. Van Dyke know of that. Ellen Smith said that the variance stated that one of the benefits of approving this was that sand would be available to the public. Mr. Kohlmorgen said he would sell it to anyone who approached him to buy material and that he has donated material to Town projects. Cheves Walling asked if this is one reason for so many truck trips; that there is just one contractor moving this? Bruce Donati asked if it was possible to use more than one contractor to move this along?

The Board discussed the length of time for this renewal. After some discussion, a 14 month renewal was agreed upon with a September 30, 2015 date to reclaim area #1 and a June 30, 2016 deadline for the total cubic yards of this application to be completed.

Conditions on this renewal will be as follows:

- 1) Excavation is limited to the scope outlined in the Earth Excavation Plans presented to the Planning Board on September 18, 2012. Documented correspondence among the applicant, town staff, and the Planning Board shall be considered a component of the Earth Excavation Plans unless otherwise modified in these conditions.
- 2) Any conditions placed on other permitting agencies shall be included as a component of this approval.

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- 3) Due to the fact that Woodbound Road is located within the Residential - Agricultural Zoning District and there are residences residing along the road, the excavator shall be limited to no more than 30 loads per day.
- 4) No additional tree cutting is permitted along the northerly portion adjacent to the isolated wetland located at Excavation area #1 and silt fencing shall be placed along the bank. This is intended to reduce the amount of sediment running into the wetland.
- 5) All silt fencing and hay bales shall be kept in satisfactory condition and remain in place until the excavation is completed.
- 6) The permit shall expire June 30, 2016.
- 7) Throughout the excavation, the applicant is bound by any restrictions imposed by the Board of Selectmen, or their designee, regarding the use of all roadways. Lack of observance of these restrictions is cause for the permit to be revoked.
- 8) All conditions of the original Notice of Decision of September 18, 2012 for an Excavation Permit shall apply.
- 9) Reclamation of Area #2 will be completed by September 30, 2015.
- 10) A review by ConCom will be completed within 30 days of this renewal and they will present their report to the Planning Director for his consideration.

MOTION: Jonah Ketola moved to approve this excavation permit with the 10 aforementioned conditions. Charlie Eicher seconded the motion. **Vote: 7-0-0**

Planning Office Report

Planning Director Kirk Stenersen reported that he had been contacted by Ed Rogers in regard to Placid Commons. They are considering changes to the landscape areas/pervious surfaces. Kirk Stenersen said that he advised Mr. Rogers that they would need to bring these changes back to the Planning Board.

Planning Director Kirk Stenersen said that he had been contacted by SVE on the possibility of converting the Meeting School property on Thomas Road to condominiums. This would require a Site Plan Review process. Kirk said that condos, per our ordinance, are not a subdivision. The State Statute defines condominiums as a subdivision. He said he will be meeting with SVE tomorrow to discuss this.

Planning Director Kirk Stenersen said that the BOS (Board of Selectmen) has commissioned a Pipeline Task Force and is asking for either the Planning Director or a designee from the Planning

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Board to sit on this committee. After some discussion, the Board decided that Kirk Stenersen would attend on behalf of the Planning Board and Holly Koski and Jason Paolino and would be alternates should Kirk be unable to attend.

Planning Director Kirk Stenersen said that the Master Plan Public Input meeting is two weeks from tonight. Jason Paolino said he will be unable to attend this meeting.

Adjourned at 8:38 pm

Respectfully submitted,

Susan Hoyland
Planning Secretary