

Place: Raymond High School; Media Center

Call to Order: 7:03 p.m.

Members Present: Bill Cantwell, Chairman; Peter Buckingham, Vice Chairman; Steve Naoum, Secretary; Frank Bourque, Selectmen's Representative; Gretchen Gott; Jonathan Wood.

Staff Present: Ernest Creveling, Community Development Director; Sharon Somers, Town Counsel; Robert Price, Planning Technician.

Pledge of Allegiance

Thibeault Sand & Gravel Excavation Renewal

Application # 2007-011; Continued from 01/17/08 - An application for Renewal of an Excavation Permit for Thibeault Sand & Gravel, LLC. The properties are shown on Raymond Tax Map 32, Lots 43 and 68; and Map 38, Lots 12 and 13; NH Route 27.

Chairman Cantwell reminded those members of the public in attendance that public comment will only be taken for the Excavation Renewal, and not for their other project currently pending before the Board.

Town Counsel Somers stated an issue was brought up in regards to notice for the 2005 proceedings. She stated this issue is a legal issue as opposed to a factual issue. The Planning Board is charged as being a fact-finding body. She clarified that any problems brought up regarding notice or process are legal issues, and can be appealed legally. Ms. Somers also outlined NH RSA 155E:9 for those in attendance, which is law governing the appeal process for Excavations. She gave step-by-step details on exactly how the appeal process must be followed.

Jonathan Wood asked Vince Iacozzi, representing Thibeault Corporation, if a bond has been posted with the Town for the current permit for reclamation. Mr. Iacozzi replied that there is a bond posted. He added he believes there are two bonds posted, but is unsure of the total amount. He added that the amounts came from the Town's Review Engineer in 2006.

Peter Buckingham asked if the renewal was granted, when excavation will commence. Mr. Iacozzi responded that there is a current issue with DES that would need to be resolved beforehand. He explained that this issue deals with how runoff from the bridge area is treated. He estimated that the earliest date for commencing excavation would be May/June 2008.

Frank Bourque asked if a presence on the site is still being maintained now that there has been a significant amount of snowfall. Mr. Iacozzi replied by stating one of the company's employees has a snowmobile, and he has been using it the keep up with site monitoring.

Frank Bourque stated the area that has been previously excavated has a tendency to be dusty. He asked how the dust will be handled during a period in which excavation is not active. Mr. Iacozzi described the approved reclamation plan to the Board. Mr. Bourque clarified his question for Mr. Iacozzi to which Mr. Iacozzi replied that the easiest thing to do would be to spread loam and seed the area.

Jonathan Wood asked what has to take place in terms of reclamation for the ponds. Mr. Iacozzi stated there is a wildlife habitat that must be created, the entire berm must be re-seeded, the ponds will have shelf areas, and those areas must be seeded.

PUBLIC COMMENT

Richard Levesque asked how it is ensured that reclamation takes place. Frank Bourque responded that the existing permit has a mechanism built in it to cover this. He explained that they must maintain an Inspection Escrow account with the Town, in addition to posting the reclamation bond.

Charles White stated he is speaking tonight as a member of the public and not in his capacity as a member of the Zoning Board of Adjustment. He asked which Board in Town is in charge of monitoring the dust issue. Mr. Bourque responded the Planning Board.

Carolyn Matthews asked since the permit was signed in 2006, why nothing took place at that time. Mr. Iacozzi replied that by the time things were finalized in 2006, it was too late to begin the process, as, by necessity, once excavation begins, it needs to be carried out to completion. Ms. Matthews asked why nothing was done in 2007. Mr. Iacozzi replied that in early 2007 some loam that had been placed on the site turned out to contain a significant amount of metal debris. The Conservation Commission requested that this junk material be removed from the premises, which we did. He added this was the only work that took place in 2007.

Gretchen Gott asked from start to finish, what is the estimated time of completion. Mr. Iacozzi responded 4-6 months.

Don Hedman asked why this was not done in 2007 if it is only a 6-month project. Mr. Iacozzi replied this was because the application for the other project was sent forward. He stated at some point, these projects became intertwined with DES and the Planning Board, and a decision was made to not proceed. Frank Bourque stated that the Planning Board knows that these projects are not intertwined. He stated they have never considered these projects as one.

Andrea Kenter stated she struggles with the fact that the projects are not intertwined. She added that the bridge repairs are part of the Alteration of Terrain permit for the other application. Mr. Iacozzi stated the items Ms. Kenter is bringing up are related to the other application, and can not be discussed. He added that for the excavation, most of the conditions have been met.

Gretchen Gott asked for clarification that the other application before the Board is an amendment to the excavation permit. Community Development Director Creveling stated that the other application is being dealt with as a completely separate application. He added that the applicant has chosen to amend the excavation permit for the other application. Gretchen Gott asked that, if by amending the application, do the two applications not become related because they are of the same initial permit. Mr. Creveling responded by stating the amendment may or may not be approved, so they are separate.

Gretchen Gott asked what DES had to say about the traffic on the bridge. Mr. Iacozzi stated their primary concern is with the silt on top of the bridge. They would like to see that problem mitigated. Andrea Kenter stated DES's request to mitigate the silt stems from the quarry application.

Charles White stated he was a member of the Conservation Commission for 16 years. He stated the bridge should be replaced.

Carolyn Matthews asked for more information as to the well test results which revealed there were one of the monitoring wells filled with sand. Community Development Director Creveling stated that the well that was filled with sand were ones that were recommended for abandonment as it currently serves no purpose.

Andrea Kenter stated it seems that all the pieces are not coming together quickly. She stated the Planning Board shouldn't make a formal decision until everything has been completed, and all the outstanding issues have been resolved.

Charles White asked how many current complaints exist with DES. Mr. Iacozzi replied that there are none, adding that all violations have been resolved.

Bob Jansen stated part of the land that is being discussed has a stratified drift aquifer underneath it. He stated he is concerned with the fact that the filter is being excavated and removed. He stated a bond won't bring back the aquifer if it becomes contaminated.

Jonathan Wood asked how deep below the water table the floor of the ponds will be. Mr. Iacozzi responded they are 12-15 feet.

Jonathan Wood asked how the reclamation plan will protect the margins, adding that he is wondering if this will now come under the Shoreland Protection Act. Mr. Iacozzi responded that the majority will become part of the Conservation Easement. Mr. Wood stated his concern is that the entirety of the shoreland area be protected so that it would maintain some level of filtration for the ponds. Mr. Iacozzi stated they have already given a Conservation Easement in 2005.

Jonathan Wood requested that the Planning Board be polled to see whether or not they would like to invite Brandon Kernan from DES to speak to the Board. Frank Bourque

stated he does not believe the Planning Board has the right to ask for this presentation because the permit is already in existence.

Mike Kappler stated that it is the responsibility, according to current RSAs, of the Planning Board or Zoning Board of Adjustment to determine if someone located above an aquifer is damaging, disturbing or otherwise contaminating that aquifer. He stated it is not under DES's control.

Carolyn Matthews asked if the existing permit has been adhered to. She also asked a hypothetical question – if the permit was renewed, and 3-4 renewal cycles down the line new information is discovered that shows the process was flawed, what the recourse is. Town Counsel Somers stated the Planning Board's job tonight is merely to determine if the permit has been complied with from 2005 to present day. She stated the chapter of the issuance of the 2005 permit is now closed. She responded to the hypothetical question by stating the only analogy she can offer would be to liken it to a site plan being approved and coming back for amendment. When it comes back for amendment, the Planning Board can go back and 'clean up' certain items. She added that it can also be noted that permits can expire.

Jonathan Wood stated he is again requesting the Board be polled, as he requested earlier in the meeting. Mr. Iacozzi asked what the purpose of the Emery & Garrett report was. He stated the report was a detailed study on this specific aquifer. He asked if the Board is saying this report has no weight.

Don Hedman asked how many abutters were present during the 2005 hearings, adding that these issues may have been discussed at that time, but the people in attendance tonight were not there and did not know about them. He stated he is asking this simply to make a point.

Two people asked for Town Counsel Somers to review the appeal process again, and she did.

Carolyn Matthews asked why the discussion tonight does not consider Map 37, Lot 2. She asks this because this lot contains the haul road which will be traveled across. Town Counsel Somers responded by stating she does not remember this lot even being referenced when the permit was initially issued in 2005. The Board's duty tonight is merely to review what has taken place from 2005 to now. Mr. Iacozzi clarified that no excavation occurs on this lot.

Chairman Cantwell closed the public comment session at this point.

Gretchen Gott asked about groundwater dewatering. Mr. Iacozzi stated there is no need to dewater on this site, and therefore no dewatering activity will take place.

Jonathan Wood requested that the Board take up his poll, as requested twice earlier. Peter Buckingham asked how any potential comments from DES have been addressed.

Town Counsel Somers stated that they haven't been addressed, adding that it is the prerogative of the Planning Board if they wish to receive any additional testimony, as the public hearing is now closed. She advised that the Board should be very cautious in terms of establishing the record. She added that if any additional testimony will be received, then the Board should clarify specifically why additional testimony is being heard, and specifically what it is being heard for.

Steve Naoum asked if DES had any specific concerns in 2005. Town Counsel Somers stated her memory is that DES did not weigh in at all during those proceedings. Frank Bourque stated on the plan, in the revision block, it is reflected that the plans were revised on 3/25/05 per DES Comments.

Jonathan Wood requested that the Board be polled to see if they would or would not like to invite Brandon Kernan of DES to speak about aquifers with them.

POLL RESULTS:

Gretchen Gott: No; The Planning Board should have addressed this in 2005

Peter Buckingham: No; (same reasons as Gretchen Gott)

Jonathan Wood: Yes; I am not an expert and I want to hear an expert's opinion

Steve Naoum: No; (same reasons as Gretchen Gott)

Frank Bourque: No; not before the renewal is considered, but later would be good

Bill Cantwell: No; not before deciding on the renewal

Jonathan Wood requested that the Board go through the Excavation Regulations point-by-point for the record to show that the Board reviewed the existing permit in terms of compliance with the Excavation Regulations. Community Development Director Creveling stated this process was not completed with the other applicants seeking renewal in June 2007.

Chairman Cantwell stated due to the lateness in the evening, he would like to continue this discussion for another night.

MOTION: Frank Bourque made a motion to continue this hearing to Tuesday March 4, 2008 at 6:30 p.m. at Raymond High School. Steve Naoum seconded. The motion passed with a unanimous vote of 6-0-0.

Approval of Minutes

MOTION: Frank Bourque made a motion to approve the minutes of 01/03/08 as drafted. Jonathan Wood seconded. The motion passed with a vote of 5-0-1, with Gretchen Gott abstaining.

MOTION: Frank Bourque made a motion to approve the minutes of 01/10/08 as drafted. Peter Buckingham seconded. The motion passed with a vote of 5-0-1, with Gretchen Gott abstaining.

MOTION: Frank Bourque made a motion to approve the minutes of 01/17/08 as drafted. Steve Naoum seconded. The motion passed with a vote of 5-0-1, with Gretchen Gott abstaining.

MOTION: Frank Bourque made a motion to approve the minutes of 01/24/08 as drafted. Steve Naoum seconded. The motion passed with a vote of 5-0-1, with Gretchen Gott abstaining.

Other Business

Community Development Director Creveling stated that staff has begun to identify projects that may need to have their approvals revoked. Additional research needs to be completed before a final list comes forward.

Adjournment

MOTION: Jonathan Wood made a motion to adjourn. Steve Naoum seconded. The motion passed with a unanimous vote of 6-0-0. Meeting adjourned at 9:45 p.m.

Respectfully Submitted,

Robert Price
Planning Technician