

Planning Board Meeting Minutes 02/06/2012

Town of Standish
Planning Board Meeting
February 6, 2012

Chairman Steve Nesbitt called the meeting to order at 7:09 p.m. Present were Carol Billington, Alta Harding, and Diana Allen. Staff present were Bud Benson, Town Planner and Jackie Dyer, Secretary to the Planning Board. Absent was Brian Libby.

Mr. Nesbitt asked for a motion to approve the January 9, 2012 meeting minutes. A motion was made by Mrs. Billington and seconded by Mrs. Harding. All in favor.

Approval for Finding of fact :

Item #1 1150 Pequawket Trail/Rocco Leo, III- Map 33, Lot 17 Site Plan Application

A motion was made by Mrs. Billington to waive the reading and seconded by Mrs. Allen. All were in favor. A motion was made to accept the Finding of Fact by Mrs. Billington and seconded by Mrs. Allen. All in favor.

Item #2 15 Forrest Street/ William & Joanne Carlson- Map 47, Lot 19A Shoreland Zoning

A motion was made by Mrs. Billington to waive the reading and seconded by Mr. Nesbitt. All in favor. A motion was made by Mrs. Billington to accept the Finding of Fact and seconded by Mrs. Harding. All in favor.

Old Business :

Item #1 Private Way Review/Vladimir Kasyanov- Map 19, Lot 30-A, Chadbourne Road

Mr. Kasyanov was present. The Board now has a set of engineered plans that are complete and need to establish the conditions of approval. There were no comments from the public. Mr. Nesbitt stated that a maintenance agreement is now in place and approved. He stated that there are some conditions of approval made by the Town Attorney that must be on the Planning Board signature plan recorded at the Cumberland County Registry of Deeds. Mr. Nesbitt read the suggested conditions of approval, per the Town Attorney:

1. The property is subject to a Declaration of Maintenance of a Private Way that runs with the land and is binding upon the property owner and his heirs and assigns as their interests may from time to time appear. Prior to the release of the signed mylar for recording, said declaration shall be duly executed and recorded by the applicant at the Cumberland County Registry of Deeds, with a copy of the recorded instrument contemporaneously provided to the Town Planner. Each subsequent deed of conveyance for the property shall incorporate the declaration by reference.
2. Commencement of construction of the private way shown on the plan shall start within six (6) months of the date of Planning Board approval, and such construction shall be completed within one year of the date of commencement of construction. Failure to comply with these deadlines as determined by the Town Planner shall cause this approval to become null and void.
3. Within six (6) months of any grading or construction on the property that is benefited by this plan, the applicant shall grade, loam and seed all scarified ground with perennial grasses and shrubs or trees. The composition and preparation of the seedbed and type of seed shall be in accordance with recommendations of the United States Soil Conservation Service for the type of soil and slope on the property.
4. The Planning Board review and approval of this plan is for a private way only. Any proposed division of the 12.84 acre parcel on which the private way is located has not been reviewed or approved under the Standish Land Use Code for

compliance with zoning or subdivision standards or reviewed or approved under 30-A M.R.S.A. § 4401 et seq. for compliance with Maine subdivision law.

5. This approval is based upon the plan submitted, as well as any supporting documentation submitted with the application and additional information provided at the public hearing. The property shown on the plan may be developed and used only as depicted on the approved plan. All elements and features of the plan and all representations made by the applicant in the record of the Planning Board proceedings are conditions of the approval. A new and/or amended permit or approval is required if any changes in the use of any building, structure or parts hereof are made after the issuance of a permit or approval.

Mr. Nesbitt asked if the applicant or anyone from the Board had any questions about the above conditions. Mr. Kasyanov said that he felt that he understood what needs to be done. He will get the hard copy and send an e-mail copy out to others. He asked if he needed to have this recorded at Cumberland County Registry of Deeds. Mr. Benson told him that the Registry of Deeds will record the final plan, but the Board must sign the final plan prior to it being taken to the Registry of Deeds. Mr. Benson told Mr. Kasyanov, that if the Board approves the plan with conditions, then those conditions would have to be put on the plan. The Board must receive two paper copies and one mylar copy, those would get sealed by the responsible professionals, be signed by the Planning Board and then those would go with the maintenance agreement to the Registry of Deeds to be recorded. Mr. Kasyanov understands that the conditions need to be put on the plan. Mrs. Billington made a motion to approve the application, subject to the conditions as previously read (Items 1-5). This motion was seconded by Mrs. Allen. No further discussion and all were in favor. Mr. Benson asked Mr. Kasyanov if he could get the plan, with the conditions on it, back to him within one week so the Board could sign them. He also told Mr. Kasyanov that the professional engineer and the land surveyor need to stamp the plans before it can be recorded at the Registry of Deeds. Mr. Kasyanov felt that a week would be long enough for him to get the plans here.

Item # 2 Gravel Pit Expansion/S.B. Freeport, Inc. (Busque) Construction, Inc.- Map 20, Lot 58-2 Rt.35

Mr. Charles Brown from Sebago Technics was present to represent the applicant. He stated that since the last Board meeting and the workshop, there have been no changes made to the plan since that time. Based on the discussions at the workshop and pending approval with conditions, he stated that nothing had changed. Mr. Benson said that the status of the bond had changed and that a performance bond is in place. Mr. Nesbitt asked if this is a C.D., Mr. Shaw said yes and that it is in place. Mr. Nesbitt asked if there were any discussions from the public, there were none. Mr. Nesbitt stated that they have a very nice plan. Mrs. Billington said that she was concerned with the size of the pit, but with the location and the buffer in place, she said that they have never had any complaints from anyone about the operation of the pit and she felt comfortable about approval. Mr. Nesbitt asked if, with the suggested conditions of approval, if anyone had any questions. Mr. Brown said they have two questions. They were wondering about the monitoring of the water by a geologist or professional engineer, they would like that changed to monitoring by the applicant. Mr. Brown stated that Shaw Brother's does their own monitoring in all their other pits and that the DEP monitors it also. They would make those records available at any time. Mr. Nesbitt stated that this is something they request of all applicants and those reports are not something that we often receive. He stated that it would be a good thing to have it from a third party, but it's the Board's decision. Mr. Brown stated that the other item they have concern about is five year limitation relative to the 25 foot set back. Mr. Benson said that was something that he threw in there as a suggestion for the Board and they could choose to use it if they wanted to. It basically says if the Grondin pit starts to mine within the next five years, the wooded buffer area between the pits would remain substantially forested and until or unless the Grondin pit received approval to mine, keeping the 25 foot setback. Mrs. Billington asked that if the Grondin pit were converted to a sub-division, which she knows has been withdrawn, what would happen? Mr. Benson said that this may be more than 5 years away before they get to clear the buffer area and work their way back, once the buffer strip is cleared, it's hard for the trees to be replaced. Mr. Shaw said that the condition doesn't say what that buffer is; if it said 25 feet than they would be comfortable with that. Mr. Benson said that it should be a 25 foot buffer. Mr. Shaw said that they are trying to keep things simple so the applicant could do their own work without hiring the engineers. He stated they have 16 pits they can do themselves, he said that anyone can go in there, put a water tape down and measure. He said you don't have to be a geologist to measure where the water table is and the DEP checks it also. Mrs. Harding asked how often the DEP checks the table, Mr. Shaw said they check it at least every other year. She also asked if they were required to submit reports annually, he said they do not do that. He said they usually just keep track of it themselves. Mr. Nesbitt said Standish has an annual inspection and Mr. Benson said this was annually done by a third party, this tells them what is going on within the pit. He said all they really is to measure the geographical area, what is opened in the pit and what is contained within the current approval. They do look for other things at the site. This is usually done in the spring. Mr. Shaw said they dig down 17-20 feet and put pipes in. They go down with their hand tape and usually hit sand. They monitor each hold and then record that the hole is dry. They are trying to prove that they are at least 5 feet from water. Mr. Nesbitt said that if the Town went in and found water, that would raise a flag. Mrs. Harding said this is monitoring seasonal high water. She has no problem with the applicant doing this themselves. Mrs. Billington said that the only reservation that she has is that this has been an issue with every gravel pit and this would set a precedent in letting one person off the hook but not another. It would say that some are good, some are bad and that would not be a good thing to do. Mr. Benson stated that you have to treat all people the same. Mr. Shaw said they had looked in the ordinance to find this and couldn't. Mr. Benson said that it is in the ordinance that it's

the applicant's responsibility to prove that the proposed pit floor is 5 feet above the seasonal high water and he feels that everyone is in agreement that they have dug down 20 feet with a backhoe and can't find the water table at this time. The Board is not asking them to drill expensive wells, but is asking them, with this condition of approval, to determine where the seasonal high water table is, as you are going down in elevation. Mr. Shaw stated that the way that they have done it with the DEP is that they have it set up so they always have 5 feet above the water table, so when you took off 10 feet, you took off 5 more feet. They will do whatever they need to do, but setting up with DEP, made it so they didn't have to have all the engineers and geologists involved, as it became very expensive. Mr. Nesbitt said that the Town needs those numbers and that is important, so the Town can have those on hand in years to come. Mrs. Billington said, referencing measuring, she doesn't think that the administrative staff is in the business of going around and checking behind people. This is usually handled by a third party, which would be the geologists. She feels that this would set a precedent and if you wave it for one party, you'd better be okay to wave it for everybody. Mr. Nesbitt said that during the workshop, they had requested two years to put the berm in for the purpose of reclamation. He was referring to #3-adequate loam to cover all reclamation needs shall be retained on site for the purpose of reclamation and the proposed berm will be completed within a two year period. Mr. Shaw said that some of the loam, when they do clear the trees within the 25 foot set back, will be used to create the berm. Mr. Nesbitt asked for any comments from the Board and the public, there were none. He asked for a motion to for a 5 year approval and gravel pit expansion, the Libby Farm Pit expansion, with amended reclamation plan dated December 27, 2011. Mr. Brown asked if the Board needed those plans updated with the conditions of approval on them and they do. Mr. Nesbitt asked for a motion of the conditions of approval with the following changes made :

3 will include: Adequate loam to cover all reclamation needs shall be retained on site for reclamation and the proposed berm will be completed with two years of approval.

8 will include: It is understood that the applicant has an agreement with the owners of the abutting Grondin pit to, at some point in the future, remove the gravel within the 25 foot buffer.

6 will include: Seasonal high water within all monitoring wells should be observed and reported by a registered professional engineer, geologist or by the applicant. The applicant must provide a copy of the inspection reports from MDEP to the Town prior to the July 1st renewal, if one has been received in the previous year.

Mr. Nesbitt asked for a motion to approve the changes, which was made by Mrs. Harding and seconded Mrs. Allen. He asked for further discussion. Mrs. Billington said for the first time in a very, very long time that she wouldn't approve this unless someone can convince her they are doing the right thing and not setting a precedent. Mr. Benson said that once they do set this precedent here, they are setting it for everybody. He said that he has not seen a report from DEP on monitoring the well every two years, but he said if they do get it, this is important and if the applicant is confirming those numbers, this is okay. He stated that as long as the wells are in place prior to the water table or discovering the water table. Mr. Nesbitt said that we just don't receive that data and he feels that it's important to have the applicant bring it in. Mrs. Billington said that is not her concern, it's setting the precedent. Mrs. Allen said that maybe if the stipulation is removed as far as having a professional engineer or geologist, that might not scare so many people away and leave them overwhelmed budget wise. She feels that it's harder for a small business to get started and not every gravel pit is a big, well established business. Mr. Benson said that it would be up to the CEO and himself to monitor the gravel pits. He said there are permanent licenses renewed annually, the five year review is done by the Board and the CEO does the separate renewal inspection, which should be done before July 1st. The renewals are granted by the CEO. Mrs. Harding asked if the DEP is a third party, and could the applicant provide a copy to the Town every other year. Mr. Shaw said they could do this. He said they check the perimeter of the pit, the fuel tanks, some of the wells, not all. He would like to simplify things as much as possible. He said that if they made them do the inspection with a geologist every year, they probably would skip it ! Mr. Benson asked if the DEP does this every year, Mr. Shaw said it's done every other year at the cost of \$ 350.00 per pit. He said there are two people working full time for the State and all that they do is go pit to pit. Mrs. Billington apologized about making the precedent a big issue and Mr. Nesbitt said this is something they need to work out. Mrs. Allen said that you have to have the same precedent for all. Mrs. Billington asked if they could amend # 6 to say that the Town be provided with a copy of the DEP inspection. Mr. Shaw said this inspection is usually done in the spring. The Town usually does their inspections in May or June. Mrs. Harding asked Mr. Shaw if they are fined if they do hit ground water. He said that in most of their pits, they are permitted to go below water. He said if they have encroached on a buffer strip, they could be fined and made to put it back. Mr. Benson stated that if they are approved to go below water, they would have had to have an expensive hydro-geological study to determine the slope of the water table and the direction the water is moving. White Brothers did that years ago. Mr. Shaw said that it is a 3 step process and very extensive. He said staying 5 feet is what the DEP considers minimal for work to be done. He said that if you get below 2 feet and want to do a sub-division later, it makes it very hard. Mrs. Billington made a motion to amend condition # 6 to include: the applicant must provide a copy of the inspection reports from MDEP to the Town. This was seconded by Mrs. Harding. All were in favor and applicant approval was granted with the following suggested conditions of approval :

- This approval is for mineral extraction only as shown on the associated on site storage areas and stockpiles. Amended Reclamation Plan of Libby Farm Pit made for S.B. Freeport Inc. Revision "A" dated 12-27-11. The limit of extraction is the same as the reclamation plan; however, the approval is for excavation five feet above seasonal high water table only. Once seasonal high water is determined, the reclamation plan will be modified and pit floor elevations must remain five feet above the high water table. In no case shall the total area needing reclamation exceed 50 acres. This includes the working pit and associated on site non-vegetated storage areas roads and stockpiles.
- In no case shall the total area needing reclamation exceed 50 acres. This includes a maximum of 50 acres of working pit plus all associated on site storage areas and stockpiles.
- A performance bond in the amount of \$159,000 for reclamation is required to be maintained. This amount assumes a cost of \$3,180 / acre for total of 50 acres. Adequate loam material shall be retained on site to reclaim pit to grades shown on reclamation plan. Topsoil shall not be removed from the site but shall be retained on site for reclamation. Adequate loam to cover all reclamation needs shall be retained on site for the purpose of reclamation. The proposed berm to be completed within 2 years of approval.

Approval is for excavation five feet above seasonal high water table only. Once seasonal high water is determined the site plan will be modified and pit floor elevations must remain five feet above the high water table.

A minimum of one steel cased monitoring well with lockable cap will be installed within the pit floor per 5 acres of open pit. Well depth will reach a minimum of 17 feet below the pit floor in that area or 5 ft into the ground water table. These new monitoring wells shall be installed around the proposed toe of slope as shown on this amended grading plan.

- Seasonal high water within all monitoring wells should be observed and reported by a registered professional geologist or applicant. Annually records of the seasonal high water table elevation shall be kept by the applicant and submitted to the town prior to annual CEO permit renewal. This monitoring well report must be certified each spring for the seasonal high water table elevations for the existing monitoring wells and all new wells. The applicant must provide a copy of the inspection report prior to annual July 1st pit renewal, if one has been received in the previous year.

No blasting within the pit without a town approved blasting permit.

- It is understood that the applicant has an agreement with the owners of the abutting Grondin pit to, at some point in the future, remove the gravel within the buffer. For the next 5 years or until such time that the Grondin pit has received approval to mine the gravel within this their setback, the 25 foot wide wooded buffer area between this pit and Grondin pit should remain substantially forested unless or until the Grondin pit has received approval to mine the gravel within this zero setback area.

Blaze property lines in area of expansion adjacent to pit

This approval is dependent upon, and limited to, the proposals and plans contained in the application and supporting documents submitted and affirmed by the applicant (either orally or in writing) and that any variation from the plans, proposals, and supporting documents is subject to review and approval by the Planning Board, except for minor changes which the Code Enforcement Officer may approve.

Mr. Nesbitt said that was all of tonight's business. Next weeks Planning Board meeting and workshop have been cancelled. There is an ordinance meeting coming up concerning Conservation. Mrs. Harding asked about signing the plans for the two approved applicants and Mr. Benson said that he would call them and let them know when those plans are here and ready to be signed. Mrs. Allen announced that the Standish Summer Spectacular is June 21-23 and their will be an informational meeting here on March 15 at 7:00 p.m. in Council Chambers. Mr. Nesbitt also stated that the Planning Board is still seeking new Board members and if anyone is interested, they should contact Mary Chapman. A motion to adjourn was made by Mrs. Allen and seconded by Mrs. Billington. All in favor.