

Planning Board Meeting Summary February 9, 2016

In attendance: Board Members –David Studer, Mitch Garnett, Bob Temple, Jesse Casas, Steve Ocean David Williams, Jim Bowers
Members of the Public – Nancy Linscott, Jon Whitten, Jr., Deborah Bocko, Wesley Daniel, Suzanne White, Ann Manson, Donald Grinnell, Rosemary Fowles, Bruce Fowles

Chairman, Mitch Garnett opened the Planning Board Public Hearing for Nancy & Berkley Linscott Mineral Extraction on Mitchel Hill Road at 7PM.

Mitch asked everyone to sign in and present any documents or statements to the Board. A letter was emailed to Ann Dean from an abutter, Carol Kraus to hand out at this Planning Board Meeting. The applicant has brought additional information for anyone interested. The applicant will present and if there are any questions they will be addressed to the Board and the Board will address the applicant if necessary. Please stand and state your name for the record before asking a question.

Jon Whitten, Jr., Senior Project Manager of Plymouth Engineering, Inc., representing the applicant, Nancy and Berkley Linscott will present to the Board and public. The proposal for the Board is for a medium size mineral extraction operation off McDowell and Mitchell Hill Roads on the 43 acres owned by the Linscott's. The excavation site will be just under 5 acres in size, located near the center of the site. The site is mostly wooded minus a field area in the front. Part of this field area had previously been excavated over a vast number of years. Operations on this have ceased on this over the last few years. That part of the project, though court rulings, have been resolved. There is a gated entrance to the site, which will be the access point. Two survey pins will be put on the property, as discussed at the last meeting, to establish a base line. As they progress into the site, every 50 feet they will do a new test pit on the floor of the pit to make sure they maintain minimum 5 feet of separation from the seasonal ground water to the bottom of the pit. Since the pit is less than 5 acres in size it meets the medium gravel pit regulations of the town's ordinance and does not need DEP approval. They are proposing an area of loam stock piling for reclamation as needed. As town regulations require, only 3 acres will be open at any one time. The name, address, and phone numbers of the operators has been added to the application along with letters that the owners/operator (Ed Blake) are currently under no violations with the Town of Washington as far as gravel pits are concerned. There was a court case, as mentioned earlier, which has been resolved. The areas that are not currently vegetated on this site will be reclaimed. They have minimal setbacks all the way around and a small intermittent stream on the property along with an abandoned home/well which will not be used during . Area wells 1000 feet from the operation are now shown on the plan along with the nearest fire station – 2 miles from the operation. There is a spill prevention plan and counter measures control plan which basically covers refueling and light maintenance work on equipment. Any water, fuel, and/or hydraulic oil will be brought onto the site when needed, not stored there. The noise generated on the site will be based on equipment during hours of operation based on the ordinance. As part of the court agreement there have been some landscape berms inside of the gate. As stated in the ordinance the buffer needs to be natural vegetation. Since the last meeting they have investigated the survey of the property and found that the survey that was supplied, Jon has a signed and stamped copy, was not an actual standard boundary survey it's a topographic survey of the operations area. They located stone walls and wire fencing all around the property but did not spend the time or money to correlate that to the exact deed. The surveyor said he thought that this did represent the boundaries. They have stone walls, public roadway, barbed wire fencing and the property deed. The truck traffic will be limited to

15 trucks in any one day, operation will be seasonal, if road is posted the operation will not happen. They feel that McDowell Road is in fair to good condition and able to take the truck traffic and the width standards are within the ordinance standards. Jon offered to answer any questions.

Mitch opened the meeting to the public for any comments or questions.

Rosemary Fowles who lives, with her husband Bruce, directly across the street from the proposed pit entrance submitted her concerns in writing. Most of their concerns are based on the fact that they have lived there since 1993 so when they were digging in the pit before they experienced, first hand, the noise level and dust. They couldn't open their windows and their car was filthy. It's a quiet road but well travels in terms of people walking. Washington Camp is on McDowell Road and there a people there all summer long walking on that road, walking their dogs, running. Her biggest concern beside the noise is the dust. She knows how dangerous calcium chloride is (to be used to keep the dust down) which will go into the air to our respiratory system. Maine has a lot of arsenic in the water that comes through the soil so arsenic could be in the dust. Right behind their house is protective wetland; will this be affected? Has this been tested? If there is a spill that contaminate could get into the ground water. She requests that the Board look at the pit and the berm and the setbacks. They feel their property values will go down. She also attached a safety data sheet to her write-up regarding the calcium chloride.

Deb Bocko also submitted a letter, in writing, regarding her concerns, some of which echo Rosemary's. The road is a big issue. She has seen some of the pictures that were taken by Ann Dean and Wesley Daniel doing their road survey. The road is cracking; one area where there is a hole and when walking near it feels like it will cave in. The culverts are getting crushed because the road is narrow. When driving her truck she has to go off to the side to pass when another truck is coming. She calls the buffer zone 'woefully inadequate' and feels they have not met the provisions of the ordinance. Looking at old records she found a 'Stop Work Order' and a "Violation of Work Stop Order". After talking with some people was told Mr. Blake was working on Sunday which is in direct disregards to the rules. She's concerned this shows a precedence and a history of abuse of the rules that are supposed to be followed. She's not comfortable with inspecting only one time per year. She reiterated one submission from July 12, 2012 regarding LUO. She is requesting the Board look into this matter. She is concerned about her ground water because of her livestock as she owns a farm, is a farmer downhill from where the pit is located. She asked why they were allowed to have 3 acres open when the ordinance shows 2 acres. She referred to page 18 of the Mining Ordinance regarding wildlife and studies. She requests that these studies be done. She's not convinced that the property lines are clear. She believes they need to have a proper survey. She stated that Washington Pond needs to be checked to find out if it is in the protected resource area and won't be contaminated by this project. She didn't find that the reclamation has been resolved since the court case. Spills happen and she has concerns about contamination. Deb strenuously objects to the operation of this pit on her road.

Wesley Daniel stated he had the road survey but wasn't asked to submit it. Mitch Garnett asked if copies could be made, for everyone, at the break so it can be part of the public hearing.

Suzanne White lives in Appleton, is an abutter who's primary bulk of property is in Washington. She pays Washington property taxes. She has serious concerns about the road and what effect it will have on the tax payers repairing the road. Suzanne has experience through the Appleton Planning Board, having served for over 12 years, with the impact of gravel trucks traveling on town roads. She has a great concern about noise because she can hear very clearly any activity that happens from that area. She respects everyone's right to use their land the way they want but she also respects the rights of people who live in the farm and forest area to have the quality of life they have set out to establish. She respects the Land Use Ordinance to preserve farm and

forest areas and not use it for industrial purposes (gravel extraction in a fragile area is industrial). This will affect many people as well as those who use it seasonally, like the camp. She has lived on her small farm for 40 years and thinks it would be a hardship to listen to continuous noise especially for those that live closer. David Studer asked Suzanne where she lives. Suzanne stated her house is right on the Washington/Appleton town line. She has had the bulk of land surveyed and has discrepancies as large as 80 acres on 1 parcel (some in her favor). She states stone walls aren't always an indication of clear boundaries.

Deb Bocko said the road posting signs are not always down in April. She asked if there would be a restriction that they couldn't travel on it if it's posted.

Suzanne White said she thought a natural resource survey should be done. She has documented, over a period of 40 years, 87 breeding bird species (some rare), a lot of vernal pools with all kinds of species. David Studer asked if she knows where they are. She stated she runs a tree farm has had it surveyed by a biologist year's ago. David asked how far away this is from the pit. Suzanne does not know exactly.

Deb Bocko stated that hours of operation 6am – 6pm 6 days a week in a residential neighborhood is too much noise.

Bruce Fowles reiterated the noise issues especially when the trucks are backing up continually beeping. They also have geese and ducks nest on their property.

Mitch Garnett closed the Public Hearing at 7:48pm. Mary Anderson received the road survey from Wesley Daniel and made 14 copies, during the recess.

Mitch Garnett called the regular monthly Planning Board Meeting to order at 8:00PM. Roll call was taken. Jesse Casas will sit in as a voting member in Jim Bowers place because he was at the last meeting. Steve Ocean will sit in as a voting member in place of Hank Aho, who was not present.

David Williams motioned to accept the summary from 01-19-16 as written, David Studer seconded, all in favor.

There were two items on the CEO report. David Williams asked Bob Temple to check on the Leigh permit to make sure the trailer is set on a slab or frost proof base (they had a temporary permit from years ago). Bob will check and report back. Bob also wrote up the town report for the Planning Board. There were a couple of changes suggested. **David Studer motioned to accept the CEO report with changes, Steve Ocean seconded, all in favor.** Bob will send it to Ann Dean after changes have been made.

Old Business

There has been a lot of information given to us and discussed during the public hearing regarding the mineral extraction application on Mitchell Hill Road and McDowell Road. Mitch Garnett asked if there were additional questions for the applicant. David Williams asked that a spelling error be corrected on the site plan.

Jesse Casas addressed the question Deb Bocko had regarding the 3 acres versus 2. It is 3 acres allowed for gravel pits – 2 acres for rock mining.

Steve Ocean asked if the court case in 2012 has any bearing at all on what we are deciding. Mitch Garnett said we should have a copy of the consent agreement from Bob Temple, to be part of the record. The agreement

was that the reclamation could take place or they (applicant) could come to the Planning Board and submit an application.

David Studer asked if we will go through all the issues now regarding the application being complete and adequate. If not adequate make it so with conditions. Mitch Garnett suggested we ask Wesley Daniel to explain the road survey then go over the 'old business' which lists the changes needed to be made in the application from the last meeting.

Wesley Daniel stated that it is a Survey Road Program put out by the Maine Local Roads Center. Towns use it to determine the condition of the roads. We're using it to figure out our 10 year paving program. There is a guide book that comes with the program to use during the survey. They took pictures of every road so they could look at the pictures while comparing their check sheets. They have not correlated the whole project. They have two more paved roads to do then the dirt roads would be done. Mitch Garnett asked when there would be a completed analysis. Wes said not until the summer. There is no projected date when McDowell road will be paved.

- a. Review and approve or amend changes to the Submission Check List – all set when consent agreement, signed survey, and road survey added.
 - b. Review Bond and cost estimate requested by the Planning Board – Applicant reviewed past gravel pit applications and there was no request for a bond so they are asking for a waiver. The bond would cover the cost of reclamation. In order to waive it they need an estimated cost to base it on.
 - c. Review and accept signed survey requested by the Planning Board – Applicant stated in the public hearing that they have a signed survey and will give the Board a copy. **David Studer motioned to accept the survey as presented, David Williams seconded, all in favor.**
 - d. Review certification regarding location of residence with 1,000 feet of the proposed activity – put on plan.
 - e. Review condition regarding all wells within 500 feet of the activity, to be noted on the plan. If there are no wells within 500 feet the plan should state that there are no wells with 500 feet – put on plan. **Steve Ocean motioned to accept d and e as complete, Mitch Garnett seconded, all in favor.**
 - f. Check for Ed Blake's address and other information to be submitted with letter regarding performance guarantee – a signed letter from Ed Blake that he has no violations. **David Studer motioned to accept signed letter from Ed Blake, David Williams seconded, all in favor.**
 - g. Insure that the issue regarding the road condition survey required by the Mining Ordinance has been addressed at the Public Hearing. I have no documentation regarding a road condition survey – information has been submitted. **David Studer motioned to accept the road condition survey as being submitted, David Williams seconded, all in favor.**
6. Determine that the board has adequate documentation to begin review of the application or request information of the applicant that will be needed prior to commencing review of application – We need to look at the additional information that was submitted tonight and see if there are any other type of survey or engineer reports that need to be submitted. The pins have been added to the plan as a base for testing every 50 feet during extraction.
7. The Planning Board may elect to begin its review of the application or table to a future meeting. **Mitch Garnett motioned to accept that there is enough documentation to begin the review of the application, David Williams seconded, all in favor.**

The Board discussed that up to two board members at a time to view the site of the pit. If, in fact, someone does view the site will bring back any information to the next Planning Board meeting.

The next meeting we will review the Public Hearing information that was submitted. Mitch Garnett suggested that some of the information be looked at/investigated before the next meeting i.e. technical issues regarding radon, calcium chloride, width of the road all the way through, wildlife. Jesse Casas read a letter from the State of Maine that stated that there are no known locations of endangered threat under special concerned species and no designated essential and significant wildlife habitats. We will go through the application line by line.

Jon Whitten brought to the Board's attention that his last part of the submission from tonight is a letter from 2013 legal opinion that the town has the responsibility to provide road access to properties within the town.

David Studer asked if we need additional information before the next meeting. If someone at the meeting wants to add to their submission. We need it by March 1 after that date no more submissions will be accepted.

Jim Bowers made it clear that this application is not considered mineral processing or industrial use. The applicant is proposing excavating gravel to screen.

David Williams motioned to adjourn the meeting at 9PM.

Respectfully submitted,

Mary Anderson

