

Planning Board Meeting Summary  
November 14, 2017  
7PM

In attendance: Hank Aho, Jesse Casas, Mitch Garnett, Ashley Hebert, Steve Ocean, Dave Studer, Bob Temple, Dave Williams Public: Paul Gibbons, Crystal Brann, Dale Brann, Douglas Brann, Joshua Carle, Bill Lane

Mitch Garnett called the meeting to order at 7:00PM with roll call; Dave Studer not in attendance.

**David Williams moved to accept the 10/10/17 summary with correction, Mitch Garnett seconded, all in favor.**

Mitch Garnett asked Bob Temple to email the second page of the CEO report to be voted on at the next meeting.

Old Business

Request by Douglas and Dale Brann to create a non-conforming lot for their daughter on the Brann Road.

Mitch Garnett asked Mr. Brann to speak to the board about his application. Mr. Brann explained that Section 11 states that the newly created lot shall not be less than 50% of the minimum lot size which he could do if he wanted to. The board said **and** road frontage; Section 11 states **or** minimum frontage (minimum lot area per dwelling unit, or minimum frontage, for a particular district. Section 12 states the lot that is created must be no smaller than ½ acre in size. There was discussion regarding the wording as well as frontage pertaining to a private road vs town road. Brann Road is a deeded access to other homes. Jesse Casas read the definition of frontage, from the Land Use Ordinance, ‘doesn’t have to be a town road’. Douglas said he had a different interpretation of the ordinance than the Board.

Mitch Garnett explained to Douglas that the Board could take a vote on this. Douglas could then take it to the Appeals Board if the Planning Board rejected it. Douglas said they could do the 2.5 acres but they don’t want to. Hank Aho would like to see a plan to show what it would look like. Douglas showed his sketch, to the Board, the proposed lot has 160’ frontage on Brann Road. Mitch Garnett stated that Mr. Brann should change the plan to show the new road to access the 2.5 acre lot and we’ll schedule a public hearing. Bob Temple will get a list of abutters to contact. Steve Ocean stated the Board should discuss what the outcome of a public hearing might be for Mr. Brann’s benefit. Hank Aho stated there is enough property (12.3 acres) to gift a 5 acre conforming lot. The Brann’s will not gift the 5 acres.

Jesse Casas read Article 13 ‘If a lot can be created that meets the minimum lot size, minimum area per dwelling unit, and minimum frontage no exception shall be granted’.

Mitch Garnett stated to Mr. Brann that he can make a conforming lot. Mr. Brann stated that at the last meeting we agreed on 2.5 acres. David Williams said yes until the Board got to Article 13 at the last meeting. Jesse Casas stated if the Board denies this application the Brann’s could go to the Appeals Board. Hank Aho asked if the Board needs a public hearing before making a final decision. After discussion a public hearing was scheduled for the December 12, 2017. If

the Brann's have any questions before the hearing they may contact Bob Temple. Bob will make sure the time frame works with publication of the hearing as well as contacting the abutter's. Mr. Brann confirmed that he needs to make a new plot for 2.5 acres with a deeded access to give the minimal frontage. Mitch Garnett reiterated that the consensus of the Board is looking at Article 13 as meaning minimal lot size would be 5 acres. Mitch stated he understands the Brann's will not do that so it could move from the Planning Board to possibly the Appeals Board and they will make the interpretation.

Mitch Garnett moved the meeting to the next order of business, request by Rockport Granite an application for an operation on Route 17 across from Jackson's Corner Store.

Bob Temple stated the application was left on the counter at the town office which doesn't state the use and the submissions don't meet any of the requirements. Bob went through and created a list of everything needed to start the review of the application. There was no reference as to who was representing the application so he couldn't contact anyone. There is a Finding of Fact order but no information to support any of the findings for deliberation. Bob feels the application is incomplete.

Bill Lane, Gartley and Dorskey Engineering, stated the question is a discussion for use. The form, as he understood, had to be submitted for an application for a use permit. It's not a Planning Board Site Plan Review yet.

Bob Temple stated the application is not paid for and we found the application on the counter not knowing who dropped it off. Bill Lane state there was a storm that day and no one was at the town office to leave it with.

Paul Gibbons stated he would like to Board to listen to what they have and then decide if they have enough to proceed forward. He believes they have enough information to meet the requirements of the ordinance regardless of what the Code Enforcement Officer thinks.

Mitch Garnett confirmed that basically the applicant is coming to the Board with just the use and then doing the site plan review.

Paul Gibbons stated they want to find out if the use is possible before spending money on a site plan.

Mitch Garnett stated if the Board determines to the applicant and understand the application better than we can do that tonight. Bob Temple stated he thinks it will create more problems listening to the use and then the site plan at another time; it is up to the Board. **Hank Aho moved to listen to the applicant tonight, Jesse Casas seconded.** Mitch called for a discussion. Steve Ocean asked after listening to the information tonight the Board doesn't have to vote on it. Mitch reiterated that what they are presenting tonight is the application for use, there is an option to vote also a time frame for the Board to vote after the application is deemed complete. Steve noted the Board can ask for more information if needed and agreed to hear what the applicant has to present. **All in favor.** Bill paid the \$50.00 fee.

Paul Gibbons stated they are placing this in the Farm & Rural District, more than 500 feet back. In that district we know that mineral process is prohibited. They believe they don't come under the definition of mineral processing. Paul called Peter Drum, the town attorney. Peter told Paul he agrees with him that their proposal does not constitute mineral processing and will send the town a letter stating such. The applicant is saying (D14) they constitute the 'structures greater than 1,200 square feet in size and their uses except single family or two family dwellings'. This structure is more than 1,200 square feet in size also (12) 'uses accessory to projects requiring Planning Board review'. Joshua Carle explained an exhibit of the buildings as they want it to

look like; to use the existing building they would add eight feet in height and forty feet to the end of the building which would be in the site plan review as a potential for the first year/year and half of being there. The process of cutting stone is all inside. They use water to cool everything with a filter press that presses the mud out and the water is reused, it is all contained. The area out back we would need for storage, the rocks come in, come through the shop, get processed and go back out. Everything is inside. David Williams asked what they do with the slag. Joshua said it gets hauled off as well as the mud once the water has been pressed out of it. David Williams asked about noise. Joshua stated everything is done inside – back up alarms on loaders, trucks driving in; similar to what is there now.

Mitch Garnett asked what the use permit would be for. Paul Gibbins stated ‘structures greater than 1,200 square feet in size and their uses except single family or two family dwellings’. There will be significant improvements will be made to this piece of property; 35 people would be employed there and it would bring in a greater tax base. Mineral processing is all about making noise.

Jesse Casas asked if there is a use that needs to be approved inside this building. Paul Gibbins interpreted that using D14 requiring Planning Board Review to have the use approved it doesn’t mean the use has to be listed in the ordinance.

Bill Lane, Gartley & Dorsky Engineering, stated the preliminary step would preface the development of full site plan. The undertaking is simply characterized as a 40 X 40 addition on an existing building, construction of a new 40 X 100 separate free standing building which is depicted on this plan now and an expansion of the yard area for storage. The site plan would need to be developed with some discrete elements that are not present on this conceptual plan ex: waste water disposal, location of a well, etc. Generally, characterizing the parcel the storm water is going to be manageable with a collection area to the southeast of the developed area. Bill discussed other aspects that will be available on the site plan.

Steve Ocean stated the definition of an industrial use says, activity involving the extraction or bringing in of raw materials, manufacturing, packaging, assembly or distribution of finished products including the processing of raw materials, etc. This may fall under industrial use.

Paul Gibbins stated the definitions in the ordinance control about what things mean. Industrial use includes a lot of different things. If you look at prohibited use for Mineral Processing, it’s big distinction is noise which is the difference between what wants to be done and what is prohibited in the ordinance. Steve said, because the noise will be contained in the building. Paul Gibbins stated the Board needs to approve the building and the use of the building. The Board is approving both things if they approve this project. This also constitutes a business which could get a permit without the Code Enforcement Officer under the ordinance. The applicant is here so the town would have control of what is going on. We want to make sure the use will be okay and we could come here for site plan review because they have a good idea that the site plan review can be met. This property is under contract and we’d need an answer before we go forward and spend money on a site plan if it’s not approved. We’re not talking about something that is completely new compared to what is already there. There are two sections of the ordinance; one has to do with uses, one site plan review – two separate applications. We know we won’t get the permit tonight but the Board could say this use meets the requirements of the ordinance.

Mitch Garnett explained a motion could be made with a condition that they pass the site plan review; that the use is permitted.

Jesse Casas re-read D14 which is clear. The use is the 1,200 square foot building and there is a use inside. What goes on outside is D12 – uses accessory to projects requiring Planning Board review.

Paul Gibbons stated there is no use, inside the building, that is prohibited by the ordinance. Site plan review is how you build something not whether you can build it.

Hank Aho stated he would like to hear from the town attorney, Peter Drum. During the application review there may be something else that comes up we have not thought about tonight and if we say ok to the use how do we backtrack.

Mitch Garnett asked, just to understand, what is the use technically? Paul Gibbons restated D14, we are asking for permission to put in a granite processing plant where we cut granite in this facility (granite fabrication) which constitutes ‘and their uses’. If you found that it was something that won’t fit in this district or cause a problem you can deny it.

Jesse Casas stated he doesn’t know if the Board can approve a use without the whole application.

Mitch Garnett stated the applicant has asked to have the Board look at the use and then do the site review which is, as he explained, outside the building. He wants to know if the Board is going to allow that use in that building so they can take the next step. Because of the size of the building there is no limitation to the use. The site plan review doesn’t stop the use inside the building. If our attorney, in writing, says that this is not mineral extraction then we could approve this use.

Bob Temple read a reference from the Administration portion of the ordinance regarding public hearings.

**Steve Ocean moved that the Board needs advise, from the town attorney, on how to proceed, Hank Aho seconded.** Steve asked the applicant if they would need another well.

Joshua Carle said no, the water gets recycled. Hank’s question is to find out if you can receive a use permit before receiving an application to do the project. David Williams stated we should get confirmation from Peter Drum, town attorney, and have him answer questions that we need him to answer.

Mitch Garnett asked the Board if they would like to expedite this to hold a second meeting this month. The Board agreed. There would still be a time frame for a public hearing. Mitch called a five minute recess.

Paul Gibbons asked if they have a complete application for a use permit. Bob Temple will make a list of what the applicant needs to submit to complete the application.

The next meeting is scheduled for November 28 at **6:30PM**.

Dave Williams moved to adjourn the meeting at 8:40pm.

Respectfully submitted,

Mary Anderson

