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## **Effingham Planning Board December 6, 2018**

**Members Present:** Mike Cahalane, Theresa Swanick, Grace Fuller, Elaine Chick, Gary Jewell

**Members Absent:** Paul Potter, George Bull

**Others Present:** Dianne Park, Rebecca Boyden, Nate Fogg

Meeting called to order at 6:35pm, once a quorum had arrived.

### **Minutes**

The minutes from November 1, 2018 were tabled until the next meeting because a quorum of members from the November meeting were not present.

### **Public Comment**

Three members of the Historical Society were present to discuss work they had done to keep water out of the basement of the historic building at the intersection of Corner Road and Old Pound Road. They placed a berm along Corner Road and placed a paved swale along Old Pound Road to divert runoff away from the building. Mike Cahalane had informed them that because the property is not residential, they should have received approvals from the planning board and others before undertaking the work. Jack Williams apologized for the oversight and explained that the improvements had fixed the water problem in the basement of the building. He explained where the berm and swale were placed and noted that the orange fence on top of the berm was only temporary until a more appropriate fence or barrier could be placed on the berm.

The planning board (PB) discussed the berm and swale and by consensus noted that they had no problem with the improvements. Mr Cahalane noted that because the swale was within the town's right of way, they should come before the Board of Selectmen and receive their input also. His goal was to make sure that all interested parties were kept up to date on the work and any future plans.

### **Preliminary Design Public Hearing**

Ms Swanick opened the public hearing at 6:45pm. Jim Rines from White Mountain Survey & Engineering came forward and introduced William Angelini Jr who is the current owner of the Effingham portion of the former Milton Dow gravel pit. The property is known as tax map 413, lot 138 and is listed as 114 acres.

Mr Rines noted that as part of a previous court settlement, a portion of the property, closest to the river had been deeded to the state leaving approximately 88 or 89 acres left with the parcel.

Mr Angellini intends run an Aggregate Extraction operation on the property, which is an allowed use in the Rural Agricultural zoning district. The parcel also lies within the Groundwater

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Protection District. The overlay district will require a special use permit if the operation intends on storing over 100 gallons of fuel on site. The owner has not yet decided if they would store fuel on site or refill vehicles from a truck.

Access to the operation will be through the existing Right of Way: Duncan Lake Rd in Ossipee.

This is a non-binding consultation for the owner and the planning board. Abutters in Effingham, Ossipee, and the Lakes Region Planning Commission (LRPC) were notified of the meeting. The applicant wanted to get feedback from the PB and the public before moving ahead with their design. Ms Swanick noted that LRPC had contacted her and noted that this was too early in the process for them to become involved.

The application will be seeking PB approval and will also need an Alteration of Terrain permit from the NH Department of Environmental Services (NHDES) for the excavation.

There are setbacks from property lines for excavation, which are 50 feet from non-consenting abutters and 10 feet from consenting abutters.

Abutter Betsy Desjardins said that she is a non-consenting abutter and noted that it is like the wild west on the property. Gun fire, motorized vehicles, fireworks, etc. It is constantly a disruption and contacting the sheriff's department has not provided any relief.

Mr Rines noted that the active pit would be better supervised compared to the current situation.

Donna, a non-consenting abutter noted that she currently has no cracks in her basement and is concerned about dust and her well also.

John Misner is a non-consenting abutter. He felt that much of the problem in the past was with the previous owner who felt that he could proceed as he wished without permits. He finally was shut down, but only after taking the issue to level of the state supreme court.

Rebecca Boyden is the Zoning Enforcement Officer and noted that Article 9, Section 902 relates to Noxious Uses, which are prohibited in the town. She will regulate that aspect and any other zoning related situations.

Ms Fuller asked about the hours of operation. Mr Angellini noted they would be 7am until 3:30pm Monday through Friday.

Mr Rines noted that the previous owner was an absentee owner and that Mr Angellini would be an active owner, running a business and the existing problems would likely be diminished.

Abutter Lane Evans asked if there would be blasting in the pit and would the pit operate all year long. Mr Angellini noted that he only screens material and does no blasting or crushing of

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material. He also expects to operate unless cold weather or snow forces him to shut down for a period of time.

The excavation would likely begin at the southeasterly corner of the property and work over a period of years towards the northwesterly corner. Mr Angellini noted that he believed that it would take about 20 years to complete the extraction.

Mr Meisner felt that someone should reread the court case involving Milton Dow to see if any restrictions or limitations exist on the property.

Mr Rines noted that an Alternation of Terrain permit only allows for 5 acres of land to be disturbed at any one time. The operators must report to the NHDES every two years with an update on progress and photographs. Every six years an updated topographic plan must be prepared and presented to NHDES with the report.

Abutters asked what recourse they have if they feel that the operation is not within reasonable sound and dust limits. Ms Boyden noted that she would respond to complaints. Mr Rines also noted that abutters or anyone aggrieved by the operation has their rights to any civil remedy available to them. Mr Meisner noted that a group of abutters was able to shut down Mr Dow when he was operating illegally. It was also asked if the PB could set limits on noxious levels as part of the approval.

Ms Boyden asked abutters to provide her with any information they find about reasonable noise, dust, or other noxious levels that she could use if a problem arises. Mr Cahalane asked the information to be shared with the PB also.

Richard Hart an Ossipee abutter asked about how they would limit the depth of excavation. He also noted that the existing pit in Ossipee sounded like traffic on Route 16 from his house although that had been in operation prior to him moving to the area.

Mr Rines noted that the depth of excavation is limited to within 4 or 5 feet of the seasonal high water table. They will be doing test borings to determine the level of the water table.

Mr Jewell noted that he found in the RSA-155 laws that in addition to the 50 foot setback to non-consenting abutters, that there is also a limit on 150 feet to an existing dwelling.

An abutter asked how this would affect their property values. Mr Rines noted that this is a permitted use and should not affect property values. If a variance was required to allow the use, then property values could be considered.

Ms Swanick thanked everyone for their comments and concerns and noted that this was a non-binding design review and that abutters would be notified again when an actual application is received. The public hearing was closed at 7:48pm.

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### **Preliminary Consultation**

Paul King presented a sketch on a USGS map of a potential subdivision he was working on. Tax Map 408, Lot 45 is a 185 acre parcel. The owner would like to create a 4-lot subdivision with 3, approximately 12 acre parcels and the remaining area as a separate lot. Lot 1 is where the existing house and driveway are located. It would have frontage on both Green Mountain Road and Jack Russel Road. Lots 2 & 3 would have frontage on Jack Russel Road and would likely share a driveway cut to minimize impact to runoff along Jack Russel Road. The remainder parcel (lot 4) would be frontage on Green Mountain Road.

There is an existing survey plan of the entire parcel and Mr King asked if he could forgo a boundary survey of the entire parcel because of the existing survey and only survey the 3 new 12 acre lots. The PB agreed that because there was a recorded boundary survey on file that not requiring a survey of the remainder parcel seemed reasonable.

Mr King then asked if he needed to survey the entire 12 acres of each proposed new parcel or would a 2-acre portion of the parcel be sufficient to prove that it was a buildable lot. The PB felt that the entirety of the new lots needed topographic survey so that they could get a better handle on the 3 lots being proposed.

### **Correspondence**

Rebecca Boyden handed out her monthly report which was reviewed by the PB.

The PB looked at a plat that had been recorded for 159 School Street, tax map 201, lot 56. The plat was recently recorded, most likely because of a real estate transaction. The survey was done back in 2000 and has the previous tax map and lot number associated with it. A request to the survey company to update the tax map and lot number received no response or change.

Ms Swanick noted that the town had received an invoice from LRPC for \$1,306 for their dues next year.

### **New Business**

The PB discussed potential Zoning Warrant Articles, including a Park Model definition, Solar Array definition, including required zoning setbacks and building permit requirements. A work session meeting to discuss warrant article was set for December 20<sup>th</sup> at 6:30pm.

The CIP meeting for December 20<sup>th</sup> has been postponed until January 24<sup>th</sup>.

### **Tickler Reminder**

Zoning amendments relating to Air B-N-Bs and Junk Yard regulations will be reviewed and discussed possible for next year's changes. Also need to check reference to Park Model and

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Travel Trailers in Section 1008 of the Zoning Ordinance and also determine if it is clear how to calculate the limit on permitted campsite coverage.

### **Old Business**

The PB reviewed the revised changes in the PB's Rules of Procedure, which has not been finalized. Changes were highlighted and reviewed. RSA references were added to several sections and motion and voting rules were updated for a change in the RSA. Ms Swanick said she would complete the changes and send out for review.

### **Next Meeting**

The next meeting will be a workshop on zoning amendments and will be held on December 20<sup>th</sup> at 6:30pm.

### **Adjournment**

Elaine Chick made a motion to adjourn the PB meeting. The motion was seconded by Gary Jewell. The motion carried 3 to 1 with Mike Cahalane voting against. Ms Fuller had left the meeting prior to its conclusion. The meeting adjourned at 8:41pm.