

Approved: _____
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Effingham Planning Board
Meeting Minutes
July 2, 2020
(via video conference call)

Members Present: Theresa Swanick (chair), George Bull (vice-chair), Grace Fuller, Elaine Chick, Paul Potter, Mike Cahalane (selectman's rep).

Members Absent: Gary Jewell (recording secretary), Mark Hempton (alternate).

Others Present: Nate Fogg, Tom Loonan, Norman & Betsy Desjardins, David Strauss, Karen Payne, Anne Foley, Paul King, Mark Lucy, and Jim Rines.

Meeting called to order at 6:00pm. Quorum present.

General Zoom practices for attendees were reviewed, such as instruction to stay "muted" when not speaking. Host will manually unmute to inquire for input of attendees who are not on video feed but dialed in.

Minutes

The PB reviewed the minutes from June 25th which were distributed prior to the meeting.

A motion was made by Grace Fuller to approve the June 25th meeting minutes. The motion was seconded by Paul Potter. A roll call vote was Elaine Chick - aye, Grace Fuller- aye, Paul Potter-aye, and Theresa Swanick- aye in favor and Michael Cahalane abstaining. The motion passed.

The Chair gave an overview of what was going to happen:

Nate Fogg is hosting the meeting and taking minutes and will assist with the application checklist review.

The first step when an application comes to the planning board is that the abutters to the matter are noticed so they can be present for a review of an application for its completeness. If the application is not complete, that is determined. If an application is complete, then there is a hearing on the matter, which may be continued to another date for completion. What we are about to commence is the application review to see if it is complete.

The Chair manually unmuted abutter Anne Foley who dialed in and cannot be seen on video to make sure she can hear and understands what we are about to do since, muted, she has no way of alerting the host or chair otherwise.

Grace noted that the hand raise function is in the chat area of the zoom screen.

George Bull joined the meeting at 6:18pm.

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Whitaker-Fadden Subdivision & Special Use Applications

The PB reviewed the Subdivision application checklist and found the application to be complete.

The PB reviewed the Special Use application checklist and found the application to be complete.

Both applications were noticed together, and the applications was properly noticed to the abutters, the newspaper ran it on the June 13th, posted at town hall and the Town's website.

Anne Foley unmuted herself said she had been disconnected and dialed back in but was not sure if she needs to be part of this part of the meeting and was unable to hear what was going on. Chair explained we have just reviewed the application documents to see if the application form and checklist were followed and that details are in those documents, that the abutters were appropriate, and the amount of the checks was correct. And we have determined that all of that is correct. Chair asked if we could proceed? Ms. Foley said Yes.

Grace Fuller made a motion to accept the two applications as complete. The motion was seconded by George Bull. A roll call vote was conducted: Elaine Chick- aye, Grace Fuller- aye, Paul Potter- aye, Michael Cahalane- aye, George Bull- aye, Theresa Swanick- aye. The motion passed 6-0.

Chair said given our full agenda, we have a Major Site Plan Application and a Preliminary Subdivision Review and a Merger application, we won't proceed with the merits of this application this evening, but will continue this and set a future date for the public hearing, not least so we might get some expert consultation on the proposal.

Mr. Cahalane said he would like to have the town's engineer review the drainage calculations and analyze the runoff would not be increasing headed down towards the Foley property.

Mr. Cahalane said he would also like to ask the town's attorney about any assurance that might be involved prior to approving a subdivision with all those structures and the driveway; he would like to either see that go in as part of the subdivision or be bonded for. Chair said we could attempt to set a date for our next regular meeting. Grace agreed to that hearing time of August 6th, giving us 5 weeks.

Chair checked in with dial-in caller/abutter Anne Foley who noted she agreed with the issue raised earlier. Her concern is that the information provided in the application labels this as "seasonal wetland"; she said having lived here all her life she can attest that the area drains year

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round onto her property, except in an extreme drought. “It freezes in winter, but as soon as the snow melts off the mountain my land is wet; it is year-round.” she said.

Abutter Dave Strauss noted that per Zoning Section 16.05(B) of the Effingham Zoning Ordinance, if there is an alternative, they must minimize the disturbance to qualify for a special use permit. Mike Cahalane noted that these are issues he would personally raise in the hearing: sections 16.05 & 16.07 of the zoning ordinance.

The PB continued the public hearing to their August 6th meeting. The PB meeting will begin at 6:00pm and the continuation of the public hearing will begin no earlier than 6:15pm.

Angelini Excavation Major Site Plan Application

The PB reviewed the Major Site Plan application for the Angelini Gravel Pit submitted by Mark Lucy of White Mountain Survey (WMS). Nate Fogg affirmed the application was filled out properly with 31 abutters including regional impact abutters. There is a copy of filed Application for Alteration of Terrain with NH DES.

There had been an inquiry re boundary issues made by NH DNCR (Dept of Natural and Cultural Resources). There was a previous Lot Line Agreement.

Permits and approvals. The state AOT is not pending, it has yet to be filed. It is quite a financial investment just to file so the applicant wants local feedback prior to submitting to the state agency. Application fee is in the tens of thousands of dollars, so that is why not filed yet. Timeline over 50 days. Mr. Lucy said a drafted copy of the application is attached, to show it is all ready to go, with Planning Board’s input.

Traffic estimate – left blank – this will be adding no traffic to town roads in Effingham. Deeded rights to travel over Duncan Lake Rd to NH Rt. 16 over former Dow Pit. No burden to town road in Effingham. Chair, but if this is a Development of Regional Impact, wouldn’t that info be relative to regionally impacted abutters? The fact that this is an application of regional impact, more details should be added for regional impact review. Mr. Cahalane said that when this was presented in Preliminary Design Review, there were people from Effingham attending but also people from Ossipee with concerns re traffic, jake brakes, dust, etc. Some estimate of traffic flow is needed. Mr. Lucy said the Town of Ossipee was noticed on this application, the applicant is fully prepared to address it in the public hearing.

Transportation, noise, dust, etcetera should be addressed for Ossipee and all abutters. The applicant’s agent was asked if he knew at what point in the past that the Effingham gravel pit was operated. The answer was not known.

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Checklist item 13 - Regarding a proposed Development of Regional Impact – Lakes Region Planning Commission was notified, the town most affected is Ossipee. Lakes Region should head that up and provide us with some information by August hearing. Grace Fuller pointed out that Porter, Newfield and Parsonsfield (towns in Maine) were notified. Mr. Lucy said that a recent state supreme court case re notification. One of the justices pointed out that there is no harm in over notifying. But they might not be part of LRPC.

Mark Lucy from White Mountain Survey noted the Carroll County Registry of Deeds does not accept site plans for recording, so no CCRD check/ LCHIP fee should be required. Chair agreed and noted to the board for the minutes that the checklist needs to be updated.

The Site Plan application was completely filled out, fees paid, and the application was properly noticed to the abutters, the newspaper on June 13, 2020, town hall, and the Town's website.

George Bull asked if the application met the new excavation regulations, and if not, what were the differences. Mr. Lucy was not prepared to answer that question at this time.

The PB has recently adopted Excavation Regulations, which require and Excavation Permit Application. WMS felt that because they submitted prior to the public notice for adopting the Effingham Excavation Regulations, they should not be subject to the new regulations.

Jim Rines, also in attendance for a subsequent matter on the agenda, and principle of WMS, spoke to this issue. He said that when zoning changes are formally posted for a hearing, at that point in time you have to adhere to them the moment they are posted until they are voted up or down. But if you submit an application before the formal posting, you are subject to the old regulations not the new regulations. He wondered if it would be in everyone's best interest if the planning board consult town counsel on this matter. His opinion based on experience is the old regulations apply.

Theresa Swanick has checked with town counsel and because RSA 155:E does not spell out how excavation regulations are to be adopted, they can be applied as soon as they are adopted, for the next case that is taken up for review by the board at a meeting. They are not the same as adopting site plan/subdivision regulations or zoning amendments. After a back and forth discussion of this matter between the chair and WMS. Michael Cahalane suggested the planning board confirm the legal effect of the recent adoption of the Excavation Regulations. Theresa agreed to inquire again with town counsel on the matter. If the legal opinion confirms correct adoption of the Excavation Regulations.

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There was discussion as to whether or not the application was complete without the excavation permit application being included. Eventually the consensus was that the major site plan application could be accepted as complete because any other required permits would need to be in place prior to giving final site plan approval.

The PB agreed with the suggestion that if the Major Site Plan application could be accepted as complete, it would allow time for the Regional Impact review to go forward, then resolve the excavation regulation question without much delay so then that gets going.

Mike Cahalane made a motion to accept Major Site Plan Application as complete. The motion was seconded by George Bull. A roll call vote was conducted: Elaine Chick- aye, Grace Fuller- nea, Paul Potter- aye, Michael Cahalane- aye, George Bull- aye, Theresa Swanick- aye. The motion passed 5-1.

RSA-155:E(III) explains the application process for excavations.

The PB discussed when to open the public hearing on the merits. The PB and applicant agreed that a separate meeting from the subdivision application would benefit everyone. The application was continued to August 13th. The PB meeting will begin at 6:00pm and the public hearing for this application will begin no earlier than 6:15pm.

Mike Cahalane made a motion to continue the Major Site Plan Application until August 13th, no earlier than 6:15pm. The motion was seconded by Paul Potter. A roll call vote was conducted: Elaine Chick- aye, Grace Fuller- aye, Paul Potter- aye, Michael Cahalane- aye, George Bull- aye, TS- yea. The motion passed 6-0.

Conceptual Subdivision discussion

Conceptual discussions are not binding on the PB or the applicant.

Jim Rines brought forth a 2-lot subdivision for TM 201-3 owned by Randy and Pamela Burbank. This is a 10.77-acre parcel on Green Mountain Road. They would like to subdivide the parcel into two lots. Their son would like to build next to them. The parcel has adequate are and frontage to be subdivided, however section 5.2.A.2 of the subdivision regulations limits the length to width ratio to 4-1/2 to 1. The proposed parcels would be between 5 to 1 and 5-1/2 to 1. This regulation was added back in 1996. The PB discussed the purpose of the regulation. All members felt that they were okay with the subdivision based upon what they know today. Also, lots over 5 acres in size do not require perc test holes.

Jim Rines noted that they will be putting the application together and submitting shortly.

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Lot Merger Application

The PB reviewed the Dipiro/Smith lot merger. The application was completely filled out, a check was included, both lots are under the same ownership, there are no mortgages on the properties. The properties are listed as TM 101-23 & 101-66 and are located on Bailey Road.

Mike Cahalane made a motion to approve the lot merger presented. The motion was seconded by George Bull. A roll call vote was conducted: EC- yea, GF- yea, PP- yea, MC- yea, GB- yea, TS- yea. The motion passed 6-0.

Adjournment

A motion was made by Mike Cahalane to adjourn the meeting. The motion was seconded by George Bull. A roll call vote was EC, GF, PP, MC, GB, TS in favor and the meeting adjourned at 9:04pm.