

Approved: _____ Approved with changes: 7/11/23 Minutes *are draft until approved*

**Effingham Planning Board
Meeting Minutes
June 20, 2023**

10

Members Present: George Bull (Chair); Elaine Chick; Chris Seamans (Selectmen's representative); Nate Williams; Paul Potter; Gary Jewell; Bridget Perry (seated for Grace Fuller); Alternates: Mike Cahalane; Linda Edwards.

15

Members Absent: Grace Fuller

Others Present: Attorney for the PB, Chris Boldt; Attorney representing the abutters, Meaghan Jepsen; Northpoint Engineer, Jeff Lewis, P.E.; Horizons Engineer, Mark Lucy P.E.; the Applicants, members of the public and Nate Fogg (PB Clerk).

20

1. Chair Bull Called the meeting to order at 6:35 PM and continued the Public Hearing for the Meena LLC Application.

25

Board member roll call: Mike Cahalane, Bridget Perry, Chris Seamans, Gary Jewell, George Bull (Chair), Elaine Chick, Paul Potter, Nate Williams, and Linda Edwards

Mr. Bull introduced Attorney Chris Boldt and Northpoint Engineer, Jeff Lewis, and seated Bridget Perry for Grace Fuller.

30

2. First order of business: Review of Site Plan regulations

Chairman Bull explained the Board will review the Site Plan regulation and determine if the applicant has met the applicable requirements of the Site Plan. The Chair stated the Board has already voted on the fact that the application is complete. The purpose of this review is to confirm the requirements due to the various changes that have occurred.

35

Beginning with section:

40

6.2 Major Review Submission Requirements

• **6.2 A**

- Multiple plats with multiple pages have been provided. The current version, dated 4/13/2023, was reviewed by the Board members for confirmation and identification of each required item.

45

- The board has determined **6.2 A** requirements are met.

• **6.2 B** The Chair read each of the 6.2 B requirements.

- Requirements 1-10

50

- The board concurs **requirements 1-10 of 6.2 B** have been met.

These minutes are considered draft until approved by the board at the next regularly scheduled meeting. Corrections will be incorporated into the finalized version of the minutes posted on the Town's website.

- 55
- Requirement 11 – Landscaping plan
 - **During the 6/6/2023 the Board voted to Waive Landscape plan requirement.**
 - Requirements 12- 20, The Chair read each requirement.
 - The board concurs **6.2 B 12-20** requirements have been met.
 - **6.2 C** as a Condition of Final Approval
 - 1. Any necessary Federal, State or Local permits and approvals
 - The Board **confirms documentation from DOT, DES and ZBA conditions have been provided.**
 - 2. Erosion Control plan –
 - Applies when there is a construction of a road, 3 or more dwelling units or cumulative disturbed area exceeding 20,000 sq feet.
 - The Board concurs this requirement **does not apply** at this site.
 - 3. Adequate stormwater drainage system developed by an engineer
 - **The Board confirms a Stormwater plan developed by an engineer has been provided.**
 - 4. Proposed or Existing easements or covenants
 - No new easements or covenants.
 - **Utility easement has been noted on the plat as required.**
 - **6.2 D** PB may require an impact analysis if deemed applicable.
 - 1. Demographic description
 - 2. Community facility impact
 - 3. Environmental Impact analysis

The Planning Board agrees these are not applicable for this site.
 - **6.2 E** Other information as deemed necessary by the Planning Board.

Per the Board, no additional information is necessary.
 - **6.2 F** Abutter list and address labels –
 - **The abutter list has been reviewed and confirmed by the Planning Board to be complete.**

6.3 “As Built” Plans

No as built plans have been provided.

Chair Bull stated for the record that he will proceed with reading through each section and requirement unless there are any objections or questions raised from any member of the Board. If questions are raised, then he will stop for discussion.

6.4 General Standards Major

- **6.4 A** Design of development...
 - 1. Site Preparation is to be conducted with minimal disturbance...
 - **The proposed plan shows buffer vegetation is to be left intact, describes revegetation over the gravel area. This requirement will be met.**
 - 2. Landscape treatment shall consist of natural, undisturbed vegetation...
 - **No changes proposed to the existing landscape. The landscape plan has been waived.**

These minutes are considered draft until approved by the board at the next regularly scheduled meeting. Corrections will be incorporated into the finalized version of the minutes posted on the Town’s website.

- 100 ○ 3. Grading and filling must be conducted to minimize alteration...
- **Stormwater plan developed by engineer to meets the condition of the ZBA Notice of Decision.**
- 105 ● **6.4 B** Illumination
- 1. Outdoor lighting shall not glare on abutting properties ...
 - The proposed plan shows **minimal existing lighting on the buildings.**
 - 2. Signs advertising goods ... not to be internally lit...
 - 5 signs on 3 posts Internally lit pre-existing
 - 1 portable marquee pre-existing movable sign
 - No other signage
 - **The Board noted preexisting signage is grandfathered.**
 - 3. Outdoor lighting is restricted to that which is necessary...
 - One downward facing light illuminating access on Leavitt Road side of property.
 - **The board agrees the lighting is appropriate.**
- 110
- 115
- 120 ● **6.4 C** Pedestrian Safety: Sidewalks shall be provided...
- Location of access doors – under the overhang
 - Front door for customers
 - Back door for loading
 - Handicap parking identified.
 - Apartments
 - Doors at front of each apartment
 - Resident parking
 - Storage Area
 - Access for employees
 - **The Board has determined the plan meets all of 6.4 C requirements.**
- 125
- 130 ● **6.4 D** Off street parking and loading...
- 1. Sufficient Off-Street loading and unloading...
 - Space has been provided in the rear of the building.
 - Designated fuel loading and dispensing
 - **The proposed plan has identified adequate parking. Meets requirements.**
 - 2. Access, parking and loading areas minimize dust, erosion, and runoff ...
 - Paved access designated directional access on pavement.
 - Vegetation to be planted on the old gravel drive.
 - **The board has determined this requirement has been met.**
 - 3. Permeable Pavement should be encouraged...
 - **The board deemed conventional paving of this area is necessary for the stormwater plan and is appropriate for this site.**
- 135
- 140
- 145 ● **6.4 E** Screening; Appropriate screen/buffers...
- 1. Buffer strips between residential and non- residential
 - Natural vegetation and steep hill provide buffer.
 - 2. Storage areas must be fenced or screened

These minutes are considered draft until approved by the board at the next regularly scheduled meeting. Corrections will be incorporated into the finalized version of the minutes posted on the Town's website.

- Inside the adjacent structure enclosed in the building.
 - 3. Litter
 - Dumpster 3-sided fencing with gated opening on a concrete pad.
 - 4. Use of fencing or hedges
 - Existing vegetation and steep hillside provide adequate screening.
 - **The Board has determined the requirements 6.4 E have been met.**

- **6.4 F** Street Access/Traffic patterns with adequate emergency vehicle access...
 - No new road construction.
 - Two Way access with proposed center line from Leavitt Road.
 - Emergency access adequate.
 - **The Board agrees that the proposed plan addresses street access and traffic as required.**

- **6.4 G** Water Supply and Sewage Disposal systems...
 - Each building has its own sewage disposal system that meets DES requirements. ISDS numbers marked on the plat.
 - Water supply previously supported a laundromat.
 - **The Board agrees adequate Water Supply and Sewage disposal systems are provided.**

- **6.4 H** Underground Fuel Storage Tanks...
 - **Mr. Lewis, independent engineer for the Planning Board, confirmed that these tanks have met the DES approval.**
 - The Board is in agreement with this requirement.
- **6.4 I** Stormwater drainage...
 - No change in the amount of stormwater runoff.
 - **The Board concurs that no additional stormwater runoff will be generated.**

- **6.4 J** Pollution Control: to avoid undesirable and preventable elements of pollution...
 - **Mr. Bull** asked the Board for discussion on this topic.
 - **Mr. Cahalane** asked are we considering the two Stormwater plan options, impermeable barrier on the bottom or not.
 - **Mr. Bull** replied we are only able to discuss the plan as presented. Until the testing at the retention basin is done, there isn't another plan on the table. There is a *condition precedent* for testing under the proposed Retention Basin.

Mr. Bull stated: The question before the board; Is the applicant doing the best that they can to provide pollution control? The applicant has presented a pollution control plan and it has been peer reviewed. If it meets DES and the requirements of this Site Plan, then they have met this requirement.

 - **Ms. Perry** stated she believes the DES tests the Site bimonthly. Who gets notified of the results, just the applicant?
 - The applicant responded everyone gets notified including the

These minutes are considered draft until approved by the board at the next regularly scheduled meeting. Corrections will be incorporated into the finalized version of the minutes posted on the Town's website.

200 **Mr. Jewell** questioned the Bioretention Design. Is there filter material under the basin? There is a filtered bed. Does it ever get changed.

- **Mr. Lucy** responded the filter media can be replaced regularly or as needed. Applicant intends to replace annually.
- **Mr. Lewis** stated in the maintenance manual, there is a detailed description of the maintenance of the filtering in the bioretention area.

205 **Attorney Boldt** reminded the Board of a question about the distance between the Public Water Supply Well and the UST tanks.

- **Mr. Cahalane** stated the deactivation of the well requires reactivation testing from DES. Annual testing by the DES that must meet State and Federal standards.

210 The applicant has supplied the proper DES documentation regarding a waiver for the distance from the well and they have an approved water supply.

- **Mr. Jewell** asked if the well testing results are available to the public. The applicant responded yes, on the DES website.
- **Mr. Cahalane** stated the DES reactivation approval does not happen until the applicant is ready to reactivate the well.

215 **Possible Condition of Approval**

- **Mr. Bull** asked the applicant for a statement of confirmation from DES that the distance between the Well and the tanks was approved.
- **Mr. Bull** raised the concern about well testing. Queried the board if the board wants the applicant to do additional testing of the Public Water Supply well? And to what degree do we expect it to be tested. It is not clear what type of testing would be done. What to test for would need to be clarified.
- **Ms. Edwards** stated she would like well testing done.
- **Mr. Cahalane** does not think it is appropriate for the applicant to have to test the wells on private properties. Each of the property owners should be testing their own wells.
- **Mr. Jewell** asked if a company will oversee the Well testing. The applicant concurred.
- **Mr. Bull** agreed with Mr. Cahalane. Testing of the abutter's wells is a requirement of every private property owner, not the applicant. The well testing under discussion is the Public Water Supply on the applicant's property.

225
230
235 **Mr. Garg** indicated if the Board wants testing, he (the applicant) needs to know what it is that needs to be tested for. He also commented that if there is ever a problem identified during regular testing, they are instructed to shut everything down.

240 **Mr. Williams** asked where will the results from the Tests go?

Mr. Cahalane stated these results would typically be sent to the Health Officer.

Mr. Seamans asked how often the Public Water Supply is tested for the restaurant.

Applicant responded monthly.

245

Mr. Seamans proposed testing the Well for VOCs in the Public Water Supply, quarterly.

250

Mr. Garg does not object to testing. He wanted confirmation from the board that once the testing parameters were established, the Board would not come back at a later date requiring different tests to be performed.

The Chair assured the applicant that whatever the conditional requirement is for testing, the Board cannot come back and ask the applicant to change that requirement. He asked if the applicant would agree to monitor the Public Water Supply for VOCs quarterly.

255

Condition of Approval would be Quarterly testing for VOCs in the Public Water Supply. The threshold is not to exceed the NHDES Standards.

Mr. Garg agreed to quarterly testing for VOCs and to submit the results to the Effingham Board of Selectmen.

260

Attorney Johnson asked what the Board wants with regards to documentation from DES with regards to the Well distance from the UST Tanks?

265

Attorney Boldt clarified the question regarding the Well approval is about the timing of when the Well was approved as a Public Water Supply and the UST tanks were approved after the Well. The question/concern raised is whether DES knew about the Well at the time the UST tanks were approved.

Attorney Johnson verified the Well distance was depicted on the Application plan for the UST tanks that was provided to DES and approved by DES. All aspects of DES were aware of the application, including the water division.

270

Mr. Bull asked Attorney Johnson if the Board could get a copy of the application that was approved by DES that would satisfy this concern.

With the addition of quarterly Well testing, the Board is in agreement that the **applicant has met the 6.4 J requirement.**

275

- **6.4 K** Where required by law, access for handicapped persons...
 - **The Board confirmed Handicapped access has been identified on the plat and meets the requirements.**

- **6.4 L** Unsuitable land: Land of such character...danger to health or peril from fire, flood, or other hazard...
 - **Mr. Bull** referred to the Site Plan Regulations and Zoning ordinance where unsuitable land is as typically Steep slopes of greater than 15 degrees or wetlands. Level well drained sandy soil would be considered suitable land. In this context this site would be considered suitable.
 - **The consensus of the Board finds this application meets the 6.4 L requirement.**

- **6.4 M** Site Plan shall provide safe and attractive...
 - **Mr. Williams** commented that the removal of the 2nd driveway onto Leavitt Road has improved safety by limiting access to and from the lot to the one access point on Leavitt Road.

280

285

290

These minutes are considered draft until approved by the board at the next regularly scheduled meeting. Corrections will be incorporated into the finalized version of the minutes posted on the Town's website.

- **The board agrees that the 6.4 M requirement has been met.**
- **6.4 N** Site Plan shall be developed in a manner consistent with character...
 - **Mr. Bull** reviewed the Master Plan to confirm the gas station is consistent with the Character of the town. The gas station is in the Master plan and is consistent with this requirement.
 - **The Board concurs the application meets requirement of 6.4 N.**
- **6.4 O** Site Plan shall show open spaces and green spaces...
 - Mr. Bull shared there is more open space and green space with this location than in a typical gas station.
 - Ms. Chick stated the proposed plan to add additional vegetation indicates there will be more green space added to this area.
 - **The Board agrees that the application meets the 6.4 O requirement.**

3. Third order of business: Effingham Zoning Ordinance

In addition to the Site Plan Regulations, the Effingham Zoning Ordinance has some requirements that would need to be met.

Article 10 Conditions for Permitted Uses

1. **Section 1005 Automobile Service Station:** This falls under this use based on the classification assigned by the ZBA Variance
 - a. Operating hours are between 6 AM and 11 PM 7 days per week. **Meets this requirement.**
 - b. Minimum lot size of Two Acres. **Lot is greater than 2 acres.**
 - c. Pumps no closer than 15 feet to any building or 25 feet of any right of way. **Has been met.**
 - d. Vegetative buffer – **has been met.**
 - e. All utilized areas for vehicular traffic must be paved. **Has been met.**
 - f. No internally lit signs – **preexisting signage currently grandfathered.**
 - g. One portable sign also permitted. **Preexisting and noted on the plan.**
 - h. Adequate room for snow storage. **Depicted on the plan.**
 - i. Used oil container for storage to be approved by ZBA – **Does not apply here. Gasoline dispensing only.**
 - **Mr. Cahalane** clarified as required by the permitted uses table: the Special Exception has been granted by the ZBA.
2. **Section 1015 Two family Dwelling unit** –
 - a. Parking -2 spaces per unit. **Has been met.**
Preexisting with no proposed changes – **grandfathered as is.**
3. **Section 1031 Retail Business**
Attorney Johnson commented this is not really a Restaurant but rather a Retail Business
 - a. Parking space requirements
 - b. Total spaces required 11, total spaces provided 13.
 - **The board has concluded this section has been met.**

These minutes are considered draft until approved by the board at the next regularly scheduled meeting. Corrections will be incorporated into the finalized version of the minutes posted on the Town's website.

340

- Site Plan Requirements have been reviewed.
 - The Planning Board confirms these have been met.
- Zoning Ordinance requirements have been reviewed.
 - The Planning Board confirms these have been met.

345

The Chair brought forth the topic of **Additional Studies**, that at the discretion of the Board may be required. Since it has been brought up in public comment, the Board should consider and address.

Wells – has been addressed earlier.

350

Traffic Study – Previously discussed and deemed not required.

Environmental Impact Study – Usually these studies are required when there is an alteration of the environment, dredge a wetland, create a steep slope, fill a wetland, change the way water is running off a property which would have an impact on the environment around them. In this case they are not changing any drainage patterns, filling anything in.

355

Mr. Seamans noted we have required water testing so that is an additional test.

Mr. Jewell Testing in the Retention Basin.

Mr. Bull to clarify the required testing for the Retention Basin is not what is required at the well.

360

Ms. Chick stated we have a Stormwater plan to be implemented that will be in place as an environmental protection measure.

Mr. Seamans commented with regard to a traffic study. This location has been a bus stop location for 30 years.

365

Mr. Bull concurred with Mr. Seamans; the school system determines where the bus stop is located.

The Board agrees that an environmental impact study and a traffic study are not required.

370

Attorney Boldt recommends this hearing be continued to another date and time to allow the Notice of Decision to be crafted to include the conditions of approval and the findings can be included and reviewed before the board makes a vote.

Mr. Bull agreed with Attorney Boldt and Attorney Boldt will draft that Notice of Decision. Attorney Boldt will be following the instructions of the Board.

375

David Riss, a member of the public asked if the Board would entertain public comment.

Attorney Boldt suggested allowing public comment specifically on the new topics raised this evening. Public comment would be limited to those topics that were discussed.

380

Testing of the VOCs, testing of the Basin, and DES confirmation of the Well and the UST tanks and then close the public hearing. 3-minute time limit on a speaker is appropriate. When you come back to your next meeting it will be a public meeting only for consideration of the Notice of Decision.

Mr. Lewis wanted to share a few things, for the record, before public comment.

385

Items for follow up:

1. I&M Manual.
2. Soil testing below the Bioretention Basin.

These minutes are considered draft until approved by the board at the next regularly scheduled meeting. Corrections will be incorporated into the finalized version of the minutes posted on the Town's website.

Add to Final Plan

- 390
3. Revised location of Diesel pump 15ft from building 25ft from the right of way,
 4. Impermeable liner on the sides of the Retention Basin,
 5. The drainage area between buildings needs additional spot elevations.
 6. Clarification of pavement removal on the plan.
 7. Gravel areas to be seeded need to be on the final plan.
 8. Basin Spillway could be moved further to the east away from the Steep slopes.

395 **Mr. Lucy** Confirmed these are all things that have been discussed.

Mr. Bull thanked Mr. Lewis stating these items will be noted for the record.

4. **Fourth order of business:** Opened the Public Comment limited to the 3 topics addressed this evening.

400 **Mr. Seamans** asked if any abutters were present this evening.

Attorney Meaghan Jepsen responded she is filling in for Attorney Biron Bedard representing the abutters.

405 **Tim Otterbach from Ossipee** made a statement that he had abutter status since this was determined as a Project of Regional Impact and that all residents of the adjacent communities are granted abutter status.

Attorney Boldt responded. Mr. Otterbach's comment is not correct. Regional Impact law allows the selectmen and the regional planning commission to have abutter status. Not all citizens within the communities.

410 **Mr. Otterbach** continued by bringing up the stormwater management plan. He wants to know when will we see a complete Stormwater management plan?

Attorney Johnson objected- stating this topic is not one of the 3 topics discussed.

Chair Bull allowed the question. The Stormwater plan provided meets all the requirements of a stormwater management plan.

415 **Mr. Lewis** confirmed. There are two minor changes, liner of the side walls and moving the Spillway. Does not affect the design.

Dr. Riss from Madison Well testing every 4 months is not a concern. I am worried about climate change, excessive rain, and floods. He would like to see additional testing required when there is major flooding. He thinks this is a terrible spot for this application.

420 **Karen Payne from Effingham** If and when those VOCs show up in the well it will be too late. Just because we are testing, we are not protecting.

Corey Lane from Porter ME The plan is dated from 4/13/23. Why are we not looking at an updated plat? How do we know what to look at? These need to be done before you approve the plan. Will you address the 50 ft setback?

425 **Mr. Bull** clarified that these changes will be set of conditions on the plan prior to approval.

Attorney Boldt interjected this is a set of conditions that will be on a final plan before the plan is approved. These are conditions precedent. This will be done in a Public Meeting not a Public Hearing.

430 **Mr. Cahalane** clarified a catch basin is not considered a structure but rather a culvert directing stormwater.

Jeff Wright from Parsonfield ME Use common sense. A Landscape plan would be common sense. Lay it out on a landscape plan to show the public what this will look like. Where will the snow go, into the DOT basin. As for an Environmental study, what would happen if there was a catastrophic event?

435

These minutes are considered draft until approved by the board at the next regularly scheduled meeting. Corrections will be incorporated into the finalized version of the minutes posted on the Town's website.

Motion by Elaine Chick to **Close the Public Hearing at 9:26 PM**. Seconded by Paul Potter. all voted in favor.

440

5. Schedule the public meeting to review the set of Conditions.

Motion by Chris Seamans to continue the Public Meeting to July 11, 2023, no earlier than 6:30 PM at 6 Partridge Cove Road. Seconded by Nate Williams. All voted in Favor.

445

Motion to adjourn by Chris Seamans. Seconded by Bridget Perry. All in Favor.

Meeting adjourned at 9:37 PM

450

Minutes prepared by Elaine Chick

455

These minutes are considered draft until approved by the board at the next regularly scheduled meeting. Corrections will be incorporated into the finalized version of the minutes posted on the Town's website.