

Approved: _____ Approved with changes: 8/17/2023 *Minutes are draft until approved*

**Effingham Planning Board
Meeting Minutes
July 11, 2023**

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Members Present: George Bull (Chair); Elaine Chick; Chris Seamans (Selectmen's representative); Nate Williams; Paul Potter; Gary Jewell; Grace Fuller.

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Alternates: Bridget Perry; Mike Cahalane; Linda Edwards.

Others Present: Attorney for the PB, Chris Boldt; Attorney for the applicants, Mathew Johnson; Horizons Engineer, Mark Lucy P.E.; the Applicants; Attorney representing the abutters, Biron Bedard; members of the public and Nate Fogg (PB Clerk).

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1. Chair Bull Called the meeting to order at 6:35 PM and continuance of the previous meeting dated June 20, 2023.

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Board member roll call: Grace Fuller, Elaine Chick, George Bull (Chair) Gary Jewell, Paul Potter, Nate Williams, and Chris Seamans.

2. First order of business: Review of past meeting minutes

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Chairman Bull explained the Board will review the prior meeting minutes related to this application and then review the finding of fact Notice of Decision document.

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- Minutes from **June 6, 2023**, Meena LLC, Public Hearing; Motion by Grace Fuller to accept the minutes of June 6, 2023, as amended. Seconded by Elaine Chick. All in favor.

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- Minutes from **June 13, 2023**, Meena LLC, Public Hearing; Motion by Grace Fuller to accept the minutes of June 13, 2023, as amended. Seconded by Elaine Chick. All in favor.

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- Minutes from **June 19, 2023**, Meena LLC, Site Walk; Motion by Grace Fuller to accept the minutes of June 19, 2023, as amended. Seconded by Elaine Chick. All in favor.

- Minutes from **June 20, 2023**, Meena LLC, Public Hearing; Motion by Grace Fuller to accept the minutes of June 20, 2023, as amended. Seconded by Gary Jewell. All in favor.

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Mr. Bull was asked by Rich Fahey to add some references to documents to the Planning Board minutes. He also stated he provided a letter with corrections for misspelled names. Attorney Boldt reminded those present that this is a review of the Planning Board's minutes, spelling corrections for names of speakers are acceptable.

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55 3. Findings of Fact – Review of the Notice of Decision

Mr. Bull explained that the Board will now review the Notice of Decision document provided by Attorney Boldt. This document is quite lengthy considering the many meetings leading up to this point. It is now a requirement that the Notice of Decision include the facts from the meetings/hearings and any findings that contribute to the Notice of Decision.

Mr. Bull also asked the Board to pay attention to the Conditions noted in the document and bring forward any concerns or issues of said conditions.

65 Review and discussion:

Mr. Cahalane recommended the following:

- **Paragraph 7**, modify statement to end the statement after” *Designated Agents*”. No further descriptor is necessary.
- 70 • **Paragraph 9**, instead of “RA” change to *Rural Agricultural* for clarification purposes.
- **Paragraph 12**, Correction the Board of Selectmen provided approval for Meena LLC to proceed with installing tanks. Attorney Boldt suggested: Insert after Meena LLC began ‘*reinstalling the underground storage tanks, etc. in the spring or 2021 with the Town’s Board of Selectmen’s approval.*’
- 75 • **Paragraph 13**, Reword statement to reflect the reason for the cease-and-desist order. The following statement will replace the draft statement; ‘*The Selectmen later issued a cease-and-desist order against the Applicant completing that installation until the Applicant secured a Variance from the Town’s Zoning Board of Adjustment (“ZBA”) from Article 22 of the Town’s Zoning Ordinance (“the Zoning Ordinance”).*’
- 80 • **Paragraph 24**, modify the statement to reflect Variance under Article 22. The following statement to be reworded as; ‘*On May 14,2021, the Applicant filed for a Variance under Article 22 with the ZBA to allow the gasoline/diesel sales operation on the Property.*’
- 85 • **Paragraph 27**, for clarification insert ‘*from Article 22*’ after the word Variance.

Mr. Cahalane noted that although not pertinent to the Notice of Decision, the applicant did provide in writing that the Applicant would assume all liability when proceeding without Planning Board Approval.

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Ms. Chick noted the Applicant’s Property address Zip Code was listed as 03816 and questioned if it should be 03882. It was decided to strike the Zip Code as it was deemed not relevant.

95 Ms. Fuller asked about the canopy for the diesel pump as a condition of approval. Attorney Boldt stated canopies are noted in **Paragraph 99**.

Mr. Seamans asked about a notation in **Paragraph 99**. Hours of operation. Ms. Chick stated she had highlighted that reference as the Zoning Ordinance indicates hours of operation between 6 a.m. and 11 p.m. seven (7) days per week. The Board agreed that the hours of operation should reflect the Zoning Ordinance.

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Ms. Chick noted in **Paragraph 96**, Basis needs to be changed to *Basin*.

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Attorney Boldt referenced **Paragraph 80**, which includes the Applicant will provide a copy of the application submitted to the DES that depicts the distance of the well from the UST tanks verifying the DES was aware of this information at the time of their approval. This is a condition of approval.

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Mr. Seamans **Paragraph 87**, remove the first instance of ‘*considered*’ in the sentence of paragraph 87.

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Ms. Fuller raised a question from her site walk regarding the distance of the diesel pump from the building and patrons driving between the building and diesel pump. Ms. Fuller recommended making the diesel pump be a one-sided diesel service with some sort of barrier.

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Attorney Boldt recommended making this a *Condition Precedent* added to **Paragraph 96**, Revising; (1) *revised location of diesel pump 15 ft from building and 25 ft from right of way with blockage to prevent usage of the pump between the building and the pump (or the Applicant shall return to the Board with a revised Site Plan if the Applicant decides on a different traffic pattern for the diesel pump.)*

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Paragraph 98, Keep statement as written. “The Board determined that Mr. Lewis and the Board Chair are authorized to determine together if the conditions precedent have been met.

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Ms. Fuller referred to **Paragraph 80**, asked if this is a condition precedent? Attorney Boldt indicated this is a condition of approval for Site Plan approval before operation.

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Mr. Jewell asked who is responsible for the conditions subsequent. Mr. Bull and Attorney Boldt commented that the Select Board would be the appropriate party for these conditions. Mr. Williams stated that the Planning Board would not have the authority to instruct the fire department to act on something where the Selectmen would have that authority.

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Ms. Chick noted a correction needed in **Paragraph 17**; the dumpster pad should state ‘*impervious*’ pad.

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Ms. Fuller **Paragraph 35**, Typo error ore should read ‘*or*’

Attorney Boldt will get the edits to the Notice of Decision to Chair Bull. Attorney Boldt asked if the Board wanted to review the amendments in another meeting. Chair Bull felt that another meeting was not necessary as the amendments were being discussed in this meeting.

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Ms. Fuller **Paragraph 96**, (6) Spillway **could** be moved or **shall** be moved. The Board decided it should be changed to ‘*shall*’ based on Mr. Lewis’ recommendations forwarded to Attorney Bolt. (7) ‘*spot elevations and drainage flow arrows in the*

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150 *areas of the pumps shall be added.'*

Chair Bull asked the Board if the members have completed their review of the document and minutes. He confirmed the Board has determined that the Applicant has met the Site Plan requirements and the conditions for approval are outlined in the Notice of Decision.

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160 **Motion** by Elaine Chick to approve the Site Plan Application of Meena LLC pursuant to the Notice of Decision as amended. **Seconded** by Grace Fuller

Roll call vote: Grace Full, aye; Elaine Chick, aye; George Bull, aye; Gary Jewell, aye; Paul Potter, aye; Nate Williams, aye; and Christopher Seamans. aye.

165 Chair Bull will wait to hear from the Applicant with regards to the outstanding conditions precedent.

Motion to Adjourn by Grace Fuller Seconded by Christopher Seamans. All in favor.

170 Meeting Adjourned at 8:45 PM

Minutes prepared by Elaine Chick

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