

NORTH BERWICK, MAINE 03906

MINUTES OF PLANNING BOARD AUGUST 14, 2008

Present: Chairman Todd R. Hoffman, Shaun DeWolf, Barry Chase, Mark Cahoon, Scott Strynar, and Lawrence Huntley, CEO.

Absent: Julie Fernie, Dennis Hartigan,

Also Present: Guy Cericola, Cindy Goodrich Leeman, Timothy Leeman, Shiela Jordan, Bruce Jordan, Ken Hill, Carol Hill, Stanley Welch, Allen Holshouser, Bill Wyman, Lawrence Litvinchyk, Viola Clough, Jim Muthig, Eric Sprague, Lola Silva, Paul Brigham, Carl V. Beal (Civil Consultant), Peter Lewis (Coastal Realty), Dana Goldberg (Goldmark), Mark O' Brian (Goldmark)

Scott Strynar arrived at 8:55 p.m.

1. Call to Order:

Chairman Todd R. Hoffman opened the Planning Board Meeting at 6:30.

Chairman Todd R. Hoffman moved Mark Cahoon to voting status.

2. Current Business:

A. Bruce & Shiela Jordan---Applicant proposes to replace existing Retaining Walls, Enlarge Existing Deck, and Install Roofs over entry doors, ad Remove Earth to Level Driveway, in the Shoreland Zone. (Map 13, Lot 34)

Bruce Jordan explained to the Board that he would like to replace existing railroad ties retaining walls that are rotting with concrete block walls faced with fake fieldstone. Build two roofs over entry doors. Replace the patio pavers to meet existing stairs. Dig out embankment to driveway level to erect a new larger storage shed.

Lawrence Huntley, CEO stated that he does not have any concerns with the Jordan's proposed project. Mike Morse and the DEP and I have gone over the whole site.

Lawrence Huntley, CEO, recommended to the Board to approve the Jordan's proposed project.

Chairman Todd R. Hoffman opened the hearing to the public at 6:45 p.m.

Anita Lambert an abutter stated that she has no concerns with the Jordan's application for the proposed projects on their property.

Chairman Todd R. Hoffman closed the hearing to the public at 6:46 p.m.

Barry Chase moved to accept the Jordan's application and conditional use permit, Mark Cahoon seconded a motion. Vote, 3-0

B. Goldmark LLC---Public Hearing—Final Plan Review, Applicant proposes a Mineral Extract Facility. (Gravel Pit) (Map 4, Lot 89 & 92)

Carl V. Beal, Civil Consultant explained to the Board and residents that he is representing Goldmark LLC, owners are Dana Goldberg and Mark O' Brian Mr. Beal provided an overview of the Mineral Extract Facility.

Chairman Todd R. Hoffman opened the Public Hearing to the public at 7:07 p.m.

The start of Goldmark LLC Public Hearing meeting was not recorded due to the malfunction of tape recorder.

Allen Holshouser asked about stumps being buried at the Sanford Gravel Pit.

Mark O' Brian stated that we do not bury stumps it is illegal and we don't do it. If there are stumps they are being crushed as we did a few years ago and it is all being dealt with through the Town of Sanford.

Cindy Leeman stated that at a neighbors home there was dust all over the furniture and they had to keep the windows closed all summer. She believes her property line is even closer and she will not appreciate the dust or the noise.

Carl V. Beal answered that we will be 150 feet of wooded buffer away from you property line. Goldmark agrees to water the road if dust is a problem.

Cindy Leeman commented that you will be digging 18 feet close to the floor, how is that going to affect the water table.

Carl V. Beal answered it will not effect the water table.

Cindy Leeman asked then why is it that last year, when I had to go get my dog, where they were digging right in the very flat of the gravel pit, there was a pool of water and it was not raining last year at that time.

Mark O' Brian replied that the only place that I know of that it was pooling was in the flat area, where some areas are going to be low in the gravel pit when you're mining the floor. There is no vegetation on the bottom of the floor and all that water has to build up somewhere.

Carl V. Beal answered that all I can say is the water table is 5 feet below the bottom of the pit excavation.

Gillespie went out this Spring and in April when the water level was high and they took readings to get the seasonal high water. The water table will not be affected by this

Jim Muthig stated I think this is the point where I want to bring up the big issue of that I have is the North Berwick Zoning Ordinance. In considering the condition to permit the Planning Board shall obey, evaluate the immediate and long range uses. Goldmark has indicated the potential for prefabricated housing development following mineral extractions whether because of reality is unknown, but is for certain that the excavated area will have ground surface, but will only be a few feet of sand and loam from our shared aquifer. Town of North Berwick Citizen's Water is 18 to 20 feet of natural filtration buffering. Once protected is gone whether prefabricated housing development for use to detect for aquifer contamination of the septic systems, from septic systems, fertilizer and any other foreign materials drastically effect. Last night August 13th a motion was made and seconded by the Town of North Berwick's Water District to go on record to being apposed to the proposed borrow mining. The study that was done was on the existing site with out any material being excavated. You are talking about a major change to the ground and the environment. I don't think the Town of North Berwick wants to risk as evidence by a vote last night at the Water District; risk a potential threat of contamination to our resource. I don't think anyone can guarantee that that flow line on Route 4 is going to stay that way after you dramatically alter what the propose to do.

Chairman Todd R. Hoffman asked Lawrence Huntley, CEO if he received a memo from the Water District.

Lawrence Huntley, CEO replied not from the Water District.

Jim Muthig commented; it's on its way.

Carl V. Beal stated that Gillespie's study did take into account the future project in North Berwick. They took into account what the effect it will have of expanding into North Berwick on the water table. They are hydro geologist engineers that's there specialty. They said there is going to be no impact on the water table. The Town of North Berwick sent that out for a peer review to another engineer and they basically agreed with Gillespie's report.

Jim Muthig replied do you understand what I just said. I said, future use, after 10 years when these people are gone. What is going to happen to that property?

Chairman Todd R. Hoffman stated that the process will happen, is all we can do now is approve this project. If there is another project there, that will have to go through the same review.

Jim Muthig replied that what I read to you from the beginning here that you have to take into account the long range effect. The Water District Board has made a vote apposing this for what I just stated.

Chairman Todd R. Hoffman asked for a memo from the Water District Board.

Carl V. Beal stated that there is no other project proposed at this time for this property. There is no housing, there is no future use, all this project is proposing is a gravel pit and it is meeting the Ordinance. The separation to the water table, it is meeting the Town Ordinance and its meeting the State Ordinance.

Allen Holshouser stated that it will be turned into a waste land. You also stated that you have a 150 foot barrier to the pit and the road.

Carl V. Beal replied that a road can be cut through, but no extraction is going to occur within 150 feet of Route 4 from the right-of-way.

Chairman Todd R. Hoffman asked how far is the right-of-way from the center of the road.

Carl V. Beal replied that the center of the road is 75 feet, Approximately 150 foot right-of-way at 225 feet.

Timothy Leeman responded that you should opt the option to not have the pit out there. That why were here. The water is the main concern, what happens 10-20 years from now.

Chairman Todd R. Hoffman explained that what we have the authority to do is to only deny someone a permit that does not meet legal standards of our Ordinance Book. We have hydrologist engineering reports and it all indicate that it is not going to impact the aquifer.

Cindy Leeman stated that at the last meeting that they promised to do. They were going to bring more people in to do water testing. They just had people look at the previous test. The Town was going to have someone else come in and do it. Nothing has been done concrete.

Carl V. Beal replied that there was another round of sampling to determine the water levels in the Spring and in the Fall by Gillespie. And using those water levels they prepared a report, which includes ground water contours, which is highest towards Route 4 and the water levels drop down towards Quarry Road. That indicates that the flow is away from Route 4. That is what there report included and there will be no change to the ground water surface on this project. The Town's Consultant reviewed that, checked that and agreed with that.

Lawrence Huntley, CEO explained to the public that R.W. Gillespie has been used by the Town for different studies. R.W. Gillespie did the study for Goldmark this time, so we sent out to Emery & Garrett, which are probably the best ones in the State of Maine, so we got a third party review on the same situation, because we didn't use Gillespie this time, but we usually use Gillespie in the Town's Geological studies.

Chairman Todd R. Hoffman read into the record a letter that was sent to Lawrence Huntley, CEO from Emery & Garrett Groundwater, Inc. on May 22, 2008. (See attachment)

Lawrence Huntley, CEO explained to the public that when we sent this study to Emery & Garrett Groundwater, Inc, we specifically asked them, because of the public being that we had before, under the concerns of the general public; such as the Wells and water flow. The Town

specifically asked them to study that information to see if it would impact the neighborhood or that the flow be towards the general public's Wells and if they would be affected. As the report states it is not going to be effected. The Town was concerned about the resident coming; the Town hired the best hydro geologist that they knew.

Cindy Leeman commented that she know that it is their property, but what does it do for the Town. It is going to be an eye sore for us; it is going to be a lot of noise. It is going to affect a lot of things in the area. It is going to down grade the price of our houses.

Stanley Welch comment was made that it will be a breeding ground for 4 wheelers.

Chairman Todd R. Hoffman answered that a condition could be to post signs on property.

Mark O' Brian commented that they posted their entrance a couple of weeks ago and the signs have all ready been stolen.

Jim Muthig commented that you keep mentioning that you can put conditions on it. I have to go back to that you also can deny the permit.

The Town just put out a Comprehensive Plan. The Town has a vision statement in the Plan. And in that vision statement is: We want to preserve the scenery, shall support organic farming, low impact forestry, ecology, sound industries, not to over burden the rural character. There is also a vote that I participated in; 102 people to 0 people did not want this type use permitted. So again the Board needs to look at what is the best interest of our Town. And to deny and this is not a vision.

Carl V. Beal replied that this is an industry; it is permitted by the current Ordinance of the Town. It provides employment for people. It is an industry that pays taxes to the Town of North Berwick. It is an allowed use within the Town.

Allen Holshouser asked how many people from North Berwick are employed there.

Mark O' Brian answered none yet, it is not opened.

Chairman Todd R. Hoffman read into the record a letter from Charles J. Anderson, Town of Sanford.

Recommendations: Goldmark should be aware that renewal of its 2004 Mineral Extraction Permit, or even its continued permit to operate now, can depend on how it complies with the Sanford ordinances, and that it would be wise to not misinterpret the conditions of approval (e.g. crushing and other ancillary processing). Also, closure slopes need to be per the approval for any expansions from Sanford Planning Board. Adherence to the approval and the intent of the approval (that is, mineral extraction only, with regular yearly reclamation) would help Goldmark's cause should it wish to alter or expand its permit to operate from the Town of Sanford.

Carl V. Beal replied that the current permit that Goldmark is operating under is up for renewal in 2009. Goldmark has applied to the Town of Sanford for a renewal of that, of the existing facility for mineral extraction and to prepare gravel using other materials that come on the site. The Town of Sanford is reviewing this currently and we are going to the Sanford Planning Board in September. The present permit does not allow crushing. Goldmark is requesting to be able to crush twice a year, for one week at a time. There is no proposed crushing for North Berwick.

Cindy Leeman asked what happens if they take it from North Berwick and crush it in Sanford.

Chairman Todd R. Hoffman answered we do not allowing crushing.

Allen Holshouser stated that you have to realize that water percolates and evaporates when it gets to the surface and you now care about 18 feet of top soil to the water table. Where my Well is, is 28 feet in material, you bring it down to 5 feet, like your talking about, your going to lose water a lot faster.

Lawrence Litvinchuk asked to look at a certain proposed site plan.

Carl V. Beal explained that this propose site plan shown in green; shows the total pit, the total reclamation in green.

Lawrence Litvinchuk stated that he is not apposed to this in reality. I think if you own the land you should be able to do what you want with it, as long as it impact dangerously on any body. I understand from the Planning Board this evening that you have to reclaim every 3 acres. How are you going to do that?

Mark O' Brian answered that Carl has the phasing on that for us. Carl V. Beal explained by view of site plan. This is what it looks like today, the gray area being the open pit, the next 5 years or so we would go into North Berwick; you would work the first 3 acres then reclaim and then work 3 acres and reclaim. This is very hard to do is strip 3 acres at a time, but since we have this Sanford area right next door that will allow the Sanford property to be utilized. There should never be more than 3 acres open.

Timothy Leeman asked what recourse is there to the Town if this is not followed.

Lawrence Huntley, CEO answered that they would be shut down.

Cindy Leeman commented that you have a 3 to 1 ratio, what is that in feet wise.

Carl V. Beal explained that if you have a 20 foot bank, then you would be 60 feet horizontal. It is 150 feet at the top of the hill, and then you go down 3 to 1 from there.

Cindy Leeman asked if there would be more of a buffer for those of us that are really close to them.

Carl V. Beal replied to will be 200 feet from the bottom of the slope, but you would be 150 feet from the top.

Chairman Todd R. Hoffman read into the record the North Berwick Zoning Ordinance:

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4. No slopes steeper than 3 feet horizontal to 1 foot vertical shall be permitted at any extraction site unless a fence at least 4 feet high is erected to limit access to such locations.

Carl V. Beal stated that during Underwood Engineers review they raised this issue of the safety of the slopes. A note on the plan has been changed and it will be noted or approved that safety fence will be installed at the top of any slope, greater than 3 to 1 or higher than 12 feet. On the plan we added a safety fence along Ms Leemans property because the slope is over 12 feet.

Chairman Todd R. Hoffman asked what type of fence is that.

Carl V. Beal replied it is an orange construction; plastic safety fence. And if there is another location where it is steeper than 3 to 1, or higher than 12 feet they will put that fence up.

Viola Clough stated that she lives on Route 4 and she sees no need for the sand pit and what use will it be for the Town of North Berwick and how is it going to help these people with beautiful homes, nothing.

Dana Goldberg replied that there was a neighbor that did buy septic sand from us on Route 4, there are some houses in Town being built that buy sand from us.

Barry Chase commented that everyone says you need affordable housing, but every time these people have to spend \$20,000.00 to \$30,000.00 on engineering, the price of sand goes up, the price of your house goes up. On one hand the government says we need affordable housing, on the other hand were going to make it such as hard as we can for you to do it.

Jim Muthig asked Mr. Beal if there was any way that he could provide software that would provide or sketch that you could show everyone what that spot is actually going to look like.

Chairman Todd R. Hoffman replied that one of the things we talked about is where the actual water level is in relation to that buffer. This stage it is 100 feet, but until we know that it is not a vernal pool. If it is a vernal pool the buffer would be 250 feet.

Chairman Todd R. Hoffman asked how far below will the pit be.

Carl V. Beal replied that the pit will be above the elevation of the wetland. The pit floor (excavated area) will be about 6 to 8 feet above the elevation of the wetland. There will be a raised 100 foot buffer area around the wetland. The excavation will be cut down from that on either side and the wetland in the middle will be untouched from what it is right now. That wetland sustained by the ground elevation. The ground water will not change.

Jim Muthig asked if a study of the wetland issue has been done, to say that that water is going to stay where it is.

Carl V. Beal answered that Gillespie has gone out and measured the water table. There is a Well right next to this wetland. The water table in that Well is exactly the same elevation as the Well at the bottom of the wetland.

Chairman Todd R. Hoffman spoke that the issue that has come up most recently is this a vernal pool and that has to be determined by an expert.

Cindy Leeman asked when do expect all this to start, if you're allowed to do this.

Mark O' Brian answered once we finish here, we have to get our approvals in Sanford as well to start mining that way. If we got all our approvals tomorrow, essentially we would start our phase 1 of our first 3 acres.

Cindy Leeman asked when do you expect to do the actual excavating behind my house.

Mark O' Brian answered that the economy has been very slow in the last year, but I presume next Spring.

Mark O' Brian explained to the Board and the public is the reason that we did the initial gravel pit is because we each own our own excavating business. To go to gravel pit and take material out for our own jobs and write someone a check every single month for thousands of dollars. It would benefit our own businesses that if were writing check we might as well be writing the checks to the bank and buy our own land. That is why we started Goldmark. In order to afford Goldmarks land as well as this land next to us we have to sell to the public to be able to afford it. If we didn't buy this land in North Berwick, it was already drawn up for multiple housing developments. It was getting ready to go to the Planning Board. Dana and I have not taken one dollar out of Goldmark since we opened it 4 years ago, all that does is sustain its own business and Dana and I don't have to pay for gravel. If people have questions or concerns call us. If the dust is that bad that day don't wait 4 years to call the Town of Sanford to complain about it, because that is just what happened. The Town of Sanford did not get one single complaint on the Goldmark gravel pit until the day we applied to the Town of North Berwick for an expansion. If people had complaints about the crusher and the dust or the screening plant; come to us; we'll work with you. If there is a problem that day, I'll call in a water truck and come water, or I'll shut down the crusher down if your baby is sleeping or what ever. There were no complaints in 4 years. We don't want to drive you out of your home, I'm sure you have lived in them for many years. We're not here to throw everyone out of their homes and destroy the land.

Cindy Leeman stated that it is not that heavily wooded, I can see the gravel pit from my house.

Mark O' Brian replied most of you live on Route 4, you see trucks, cars, everything imaginable going down Route 4. You live on Route 4, we're going to be below your houses, were going to be at a 150 foot buffer of trees there. If you didn't want to live there you wouldn't buy right on Route 4 and watch all that traffic go by all the time.

I also own land in North Berwick, so don't think I'm running away somewhere and I'm a tax payer here.

Cindy Leeman commented that if I would have had a complaint because it was affecting me in the 4 years that they have been there. I would have been calling them. I haven't had any problems as yet because there still far enough away. I m dealing with the noise because I live off of Route 4, but I don't know if I need to be living in the middle of Route 4. If I have a problem I will go see them.

Chairman Todd R. Hoffman explained that our Zoning Ordinance Book does not allow what going on in Sanford.

Chairman Todd R. Hoffman closed the Public Hearing at 8:27 p.m.

Chairman Todd R. Hoffman explained that he is not comfortable with only three Board members here this evening. We have had numerable emails with different Board members.

Chairman Todd R. Hoffman read into the record a memo from Dwayne Morin (Town Manager) (See attachment)

Lawrence Huntley, CEO commented that we have a review from Underwood Engineers that we have not seen and their rebuttal to that review or what Underwood has determined about that rebuttal at this time, my suggestion that this meeting be tabled until next meeting.

Chairman Todd R. Hoffman tabled the meeting this evening.

Jim Muthig asked to have his emails sent to the Planning Board.

Chairman Todd R. Hoffman replied send emails to Lawrence Huntley, CEO, please forward to Planning Board.

Carl V. Beal asked for a date for the next meeting.

Lawrence Huntley, CEO, August 28, 2008 and there will be no letters sent to everybody. The next meeting will be posted on August 22, 2008.

Chairman Todd R. Hoffman stated that we have raised certain issues that we need to think about; slope, is it steeper than 1 to 3 and if not how would we regulate that; 12 feet or higher a safety fence, dust, water trucks and hours of operation, no crushing, no off site materials, the vernal pool and if we see the wetland dry up do we have any recourse.

Jim Muthig commented that was a question the Water District had yesterday, what if.

Chairman Todd R. Hoffman asked how often will the test Wells be audited.

Carl V. Beal answered that they will be sampled twice a year.

Chairman Todd R. Hoffman spoke to Mr. Muthig that the Water District may want the test Wells tested more often and to let the Board know.

Chairman Todd R. Hoffman asked how many Wells are there.

Carl V. Beal replied there are 6 Wells in Sanford and 6 Wells in North Berwick.

Chairman Todd R. Hoffman asked Mr. Muthig to provide the Board with documentation of the Water Districts vote last night as part of the record.

Carl V. Beal stated that I will put the conditions on the plan, just provide them to me. I can also change the buffer on the plan and show the 250 buffer rather than having it as a condition; I can draw that on the plan.

Jim Muthig asked Carl V. Beal if he had any software in your office to provide a three dimensional, to what this might look like.

Carl V. Beal answered that we can do that.

Mark O' Brian stated that he clearly understands that you want to push the vote out for when there is more people here on the Board. My only concern is that the emails that go back and forth that the Board members that aren't here have expressed concerns, that any of their concerns that may come up for the next meeting, that they get to Carl, so that we don't come to the next meeting and then when the other Board members start saying; I want this on the plan and be put out for another two weeks. Underwood has reviewed this three times and were waiting for a forth return on them. It just cost us time and money.

Chairman Todd R. Hoffman stated we need to hear back from Underwood Engineers and determine the setback around the vernal pool.

3. Preview next agenda:

4. Other Business:

5. Preview Previous Minutes:

Mark Cahoon moved to accept the minutes of July 24, 2008, Barry Chase seconded a motion. Vote, 3-0

6. Adjournment:

Mark Cahoon moved to adjourn at 9:15 pm, Barry Chase seconded a motion. Vote, 3-0

Lawrence Huntley, CEO
Planning Coordinator

Respectively Submitted:
Anita Lambert, Stenographer

Chairman: R. Todd Hoffman
Julie Fernee
Dennis Hartigan
Shaun DeWolf
Barry Chase
Mark Cahoon
Scott Strynar

Copies:
Chairman R. Todd Hoffman
Julie Fernee
Dennis Hartigan
Shaun DeWolf
Barry Chase
Mark Cahoon
Scott Strynar
CEO
Town Manager
Selectmen
Christine Dudley
ZBA
File