

Town of Acton, Maine

Planning Board Meeting

MEETING MINUTES

DATE: October 6, 2016 (approved November 3, 2016)

ROLL CALL:

Members Present: Bob Smith - Chairman
Tom Cashin – Vice Chairman
Yoli Gallagher
Gavin Maloney
Skip Scott
Leslie Berlan, Alternate
Lincoln Marston, Alternate

Also present: Ken Paul, CEO, Brenda Charland, Recording Secretary; Virginia Deboer, Video Recorder

The Chairman convened the meeting at 7:00 p.m., declared a quorum and stated that Leslie Berlan would be the voting alternate member.

Approval of Minutes: Moved by Skip Scott, seconded by Tom Cashin, to approve the Minutes of the Meeting of September 15, 2016 as written with paragraph five on the second page regarding Old Business, Pepin Application to expand existing mineral extraction amended to read: *“Carl Davis explained that Three Rivers Land Trust is seeking funding from the Land and Water Conservation Fund to purchase the property from the Pepins. This agency funds conservation projects from monies derived from wetland reclamation.”*

Also, Mr. Cashin stated that he had requested at that meeting that the Board express consensus that the property would have to be divided to allow for additional conditional uses on the site, however, the Chairman reminded him that the Board declined taking a consensus until more information was available. Mr. Cashin wanted the minutes to read that he agreed with requiring division of the property.

Old Business:

- **Site Walk - Pepin, Conditional Use Permit to Expand Mineral Extraction Operations at Map #207, Lot #005, H Road:** The Chairman reviewed the site walk that occurred on Saturday, October 1st. He noted that the road to the area around the Little Ossipee District to the northwest border of the property was a better road than the road that leads into the pit from the H Road. The berm in that area will be excavated to within six feet above the water table. The area will be left relatively level. This will create a self draining area throughout the excavation process preventing runoff into the river.

Mr. Smith spoke about reviewing the existing pit which does not cause any concern and noted that it is obviously not in use currently.

The Chairman reported that the group also visited the former extraction area near square pond which has been reclaimed. He noted that extensive tree planting of various varieties of pines has been used to bring the area back to its natural state as much as possible.

Skip Scott expressed concern about preserving the condition of the road if extensive gravel extraction is allowed. He stated that the amount of taxation that is derived from the site could not begin to cover the cost of repairing the road caused by the increased traffic.

Ken Paul pointed out that the attorney representing the Pepins interprets the Ordinance as allowing the extraction of 10,000 yards of material each year from each district. He cited section 5.9.2 of the Ordinance regarding Mineral Extractive Industry, subsection a) Earthmoving not Requiring a Conditional Use Permit exception which states *“Except in the Shoreland District and the Resource Protection District, the removal or transfer of less than ten thousand cubic yards (10,000 cy.) of material from or onto any lot in any twelve (12) month period.”* He noted that this is what he bases his interpretation that the allowance of extraction of less than 10,000 annually is per lot, not per district on.

Tom Cashin stated that in the Shoreland and Resource Protection Districts even the 10,000 yards per year is not allowed.

Gavin Maloney noted that in section 4.7 of the Pepin Plan, the intention is to extract 13,000 from each of two different Districts which does not comply with the Ordinance.

The Chairman stated that he feels without taking an official vote, consensus of the board is in agreement with the CEO’s interpretation.

- **Acton Zoning Ordinance Section 1.4.11.2: Resource Protection Building Expansion Outside of Shoreland Zone:** Ken Paul explained that the State of Maine defines the Resource Protection district as having in excess of ten acres of non-forested wetlands, however, the Town of Acton defines RP as two acres of forested wetlands. The State’s definition came into effect in 1989, the Town’s definition came into effect in 2010. The State allows 30% expansion over the lifetime of a structure built before 1989. The Town does not allow any expansion within the Resource Protection District.

Tom Cashin proposed that property owners of non-conforming structures that were built prior to September 29, 2011 are allowed to expand their primary structure by no more than 30% of the area and 30% of the volume over the lifetime of the building but no closer to the resource.

Consensus of Board Members was that Ken Paul will draft a proposed section to include an exception to Section 1.4.11.2 as discussed and will bring it back for consideration at the Board Meeting scheduled for November 3rd.

- **Acton Zoning Ordinance Section 2.7 Relative to Timber Harvesting:** Tom Cashin pointed out that the language regarding timber harvesting that exists in the current Ordinance is based on the DEP Chapter 1000 published in May, 2006. He said that Section 5.19.1 is verbatim with Chapter 1000 but when the stricter wetland was adopted by the Town, it created a conflict. The State’s definition of resource protection is a subset of shoreland districts; in Acton, the Resource Protection District is a stand alone district distinct from the Shoreland District. Ken Paul noted that there is a new Chapter 1000 published in

January 2015 but that it doesn't stipulate a date that requires the Town complying with the new language.

Mr. Paul said that he and Steve Bodkin will be meeting to work on a proposal regarding resolving any conflict that exists in the Ordinance relative to timber harvesting.

The Chairman asked that the Secretary provide copies of both the original 2006 Chapter 1000 and the newer version published in 2015.

New Business:

- **Acton Zoning Ordinance regarding Solar and Wind Turbines:** The Chairman wondered if addressing solar and wind turbines might be as easy as including them in the Land Use Chart. Mr. Paul felt that alternative energy should be its own section clearly outlining what would be allowed and what would be prohibited. Gavin Maloney expressed the opinion that section 5.11.17 of the Ordinance, View Protection, would be a good place to start.

“When a proposed development is located within the view shed of a view, as identified in the comprehensive plan, from a public street or facility, the development must be designed to minimize the encroachment of all buildings, structures, landscaping, and other site features on the identified view.”

Ken Paul will contact Southern Maine Regional Planning to ask if they have a draft regarding alternative energy available.

Adjournment: The Chairman adjourned the meeting at 8:03 p.m.