

Town of Acton, Maine

Planning Board Meeting

MEETING MINUTES

DATE: December 1, 2016

ROLL CALL:

Members Present: Bob Smith - Chairman
Tom Cashin – Vice Chairman
Yoli Gallagher
Gavin Maloney

Members Absent: Skip Scott (excused)
Leslie Berlan, Alternate (excused)
Lincoln Marston, Alternate (excused)

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

The Chairman convened the meeting at 7:00 p.m., and declared a quorum.

Approval of Minutes: Moved by Yoli Gallagher, seconded by Tom Cashin, to approve the Minutes of the Meeting of November 17, 2016 as written. Mr. Cashin requested that the last sentence on page one which reads” ...Mr. Cashin pointed out that the Resource Protection Districts on that site exceed ten acres so they actually existed prior to the Ordinance Resource Protection Districts created in September 2011 so there was no change in the RP designation”, should refer to the one Resource Protection District on the site. The sentence as amended would read: “...Mr. Cashin pointed out that the Resource Protection District on that site exceeds ten acres so it actually existed prior to the Ordinance Resource Protection Districts created in September 2011 so there was no change in the RP designation”. The motion passed 4-0 to approve the Minutes as amended.

Old Business:

- **Pepin, Conditional Use Permit to Expand Mineral Extraction Operations at Map #207, Lot #005, H Road:** Matt Pepin reviewed an updated plan with the Board and the changes in the Operations Manual. He expressed the opinion that the Resource Protection that currently exists on the property occurred as a result of the Ordinance change in 2011. Gavin Maloney explained that he thinks most of the Resource Protection existed prior to the change especially the area around Hanson Pond. Mr. Pepin stated that it is essential to the operation of the company to mine 20,000 cubic yards per year from the site.

Tom Cashin explained that because the Resource Protection areas are connected to each other as well as to Hanson Pond exceed ten acres and are subject to State criteria. Mr. Pepin noted that his Intent to Comply that was submitted to the DEP showed seventy-five foot buffers and was approved by Mark Stebbins. Mr. Cashin pointed out that the Planning Board is obligated to make decisions based on the map as voted by the Town’s people in September, 2011 and that the consideration comes back to whether 10,000 cubic yards of material can be removed from the lot or from each Resource Protection area. He quoted section 5.9.2b(1) 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*” and stressed the

words “from or onto any lot” means per lot not per district. Therefore, only if the lot is divided so that the extraction comes from different lots can a Conditional Use Permit be approved to extract 10,000 cubic yards per lot. Mr. Pepin expressed concern that the difficulty in dividing the lots lays with constructing the required road frontage. Mr. Cashin noted that Subdivision Regulations allow the Board more leverage in considering application therefore, dividing the property would be advantageous.

Ken Paul again stated that his concern with the application is around the tree cutting that would be necessary to allow extracting 10,000 cubic yards; only 10,000 square feet can be cleared. Mr. Pepin thought that a condition could be imposed on the Conditional Use Permit to allow only, for example, two acres can be opened for extraction at any time. Mr. Maloney stated that only 40% can be cut in any ten-year time period.

Mr. Cashin pointed out that Section 5.20.1 of the Zoning Ordinance which states “Within a Resource Protection District adjacent to a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five feet (75’) horizontal distance, inland from the normal high water line, except to remove safety hazards. Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that District” might be considered because gravel extraction is an authorized use.

Mr. Paul again reminded the Board that this section of the Ordinance specifically addresses tree removal on small lots; the Section that focuses on timber harvesting, and should be used in this instance, is 5.19.2.3.

Mr. Pepin requested a letter stating the Board’s stance regarding the application so that he could consider how he should proceed. The Chairman stated that the two major obstacles that the Board has identified in connection with the application are multiple uses on a lot and cleared areas in excess of 10,000 square feet. Consensus of the Board was that a Mr. Pepin forward a letter to the Board in which he addresses his stance regarding those two areas on concern.

Tom Cashin asked Ken Paul if he sees any problems with subdividing the lot to allow for extractions in the various areas as requested on the application. Mr. Pepin expressed concern that he could develop a road that meets Town standards to create the required road frontage. Mr. Paul expressed the opinion that subdividing the lot would r solve the problems and that a road could be designed without running across Resource Protected areas.

- **12th Street Acres Subdivision Modification:** The Chairman stated that action on this subject will be tabled until the property owner comes forward with a suggested resolution.

New Business:

Three Rivers Land Trust / Town of Acton Subdivision Application, Portion of Map 220, Lot 002: Carl Davis requested direction from the Board outlining what will be required in order to create a subdivision. In reviewing the required submissions listed in the Ordinance, the Board identified the following items:

1. Driveway entrance location into Lot #2 noted on the map with distance of yield from both directions;
2. Proposed parking designated on the map;
3. Public use, trail layout with ditching;
4. Building envelopes;

5. The Purchase and Sale Agreement;
6. Most recently recorded deeds;
7. Deed restrictions;
8. Existing septic plan;
9. The water supply for Lot #1;
10. Wetland areas;
11. Location of rivers, streams, brooks;
12. Zoning boundaries;
13. Public access path on Lot #2;
14. Proposed forestry;
15. Proposed improvement management;
16. Comprehensive Plan section addressing Goat Hill preservation;
17. Contour lines;
18. Stormwater management plan.

Carl Davis reported that because the grant that the Land Trust is seeking must be issued to a municipality, a special Town Meeting will be held on December 13th to request approval from voters to authorize the Board of Selectmen to process the grant.

Acton Zoning Ordinance Proposed Amendments:

- **Section 1.4.11.2, Resource Protection Building Expansion Outside of Shoreland Zone:**
- **Section 2.7 Relative to Timber Harvesting:**
- **Solar and Wind Turbines:**
- **Section 2.7 Relative to Filling, Grading, or Other Earth Moving Activity:**
- **3.2 Definitions, Foundation:**

Adjournment: The Chairman adjourned the meeting at 9:30 p.m.