

# TOWN OF EDDINGTON, MAINE

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## PLANNING BOARD February 17, 2015 5:30 pm MINUTES

**CALL TO ORDER:** Tom Vanchieri called the meeting to order at 5:46 pm.

**ROLL CALL:** Members present were Tom Vanchieri, Henry Hodges, Craig Knight, Susan Dunham-Shane and Gretchen Heldmann. Charles Norburg and David McCluskey have excused absences.

Motion to make Craig a voting member for tonight.

By Henry/Susan 2<sup>nd</sup>. Vote 3-0

### **MINUTES:**

### **UNFINISHED BUSINESS:**

### **NEW BUSINESS:**

**OTHER BUSINESS:** The Board will review items brought up at the Public Hearings on the Addendum and Zoning Ordinance changes and the response from the Attorney on their last set of questions.

They started by reviewing the paperwork from Janet Hughes with items she discussed at the first Public Hearing.

1. 2008.2.3.3, page 11, Janet said that the statement "Extraction may not occur within 5 feet of the seasonal high water table." conflicts with the Setback Chart on page 24. Susan does not want to use the term groundwater table per her suggestion. The State also uses the word seasonal high-water table. When the Board looked at the Setback Chart, they noticed that the reference numbers had been compressed when the chart was pasted into the document.

- a. Gretchen will adjust the chart to what it was when they reviewed it with a [2] in the first column and [1] in all of the other column for The Seasonal High Water Table.
- b. On page 11, 2008.2.3.3, first sentence, at the end add "except as noted in table 2008.2.13.1, Minimum Setbacks."

2. 2008.2.3.9, Janet said that the wording leads the applicant to believe that the Planning Board may or may not decide to have a hydro geologic evaluation. MDEP requires the evaluation be conducted if there is any work below the groundwater table for rock excavations or within 5' of the seasonal high groundwater table for borrow pits. Gretchen noted that 2002.2.2.18 under New Operations or Expansion of Existing Operations states that if the cumulative affected area is over 5 acres, the following additional submissions are required. a) "A hydrogeological evaluation, prepared by a qualified professional, which shows the depth of ground water throughout the site and establishes that the MEO will not cause any pollution in ground water and/or surface water, or negatively impact existing wells."

a. 2008.2.3.9, a. Remove "A hydrogeology study or assessment bY a qualified professional."

and add "Review of the applicant's hydrogeological study prepared by a qualified professional and submitted to the Planning Board."

Janet questioned the last sentence in this section. "The cost of these items shall be borne by the applicant, but the Planning Board shall have authority to determine which professionals to undertake any such investigation or consultation." Tom said that the reason why he thinks this paragraph is there is to keep the applicant and the person doing the study separated. Henry said that because there are only a

handful that can do the study, it will be hard to find an impartial third party. Susan said that what Janet is requesting is that any further study that they decide is needed is a review of the study from what the applicant has submitted. When they wrote the wind ordinance and put the third-party study in, it was because the review of the applicant's study only reviews the data that the applicant has provided, when there may be other elements that the Board would like contained in the study. Susan referred to 2002.2.2.18, mentioned above, and that it is part of the application. While 2008.2.3.9 is if the Board determines that an independent study would assist it to determine if they have met the standard regarding risks of pollution it may require additional information. They will leave the wording in the sentence starting "The cost of these..."

3. 2008.2.3.10, Standard for Ground Water Impacts, Janet does not think that the reference to the Federal Primary Drinking Water Standards and the Secondary Drinking Water Standards should be in this Addendum because it does not apply to mining operations. Janet said that this is requiring the water from the ground to be at public water standards. Gretchen said that the watershed for Brewer water supply is in Eddington and that is why b & c were added to the Addendum from Mt. Desert. Gretchen did not see how they could remove the reference to Federal Primary Drinking Water Standards, etc. because there are private parcels in the Brewer Water Shed that could have development. Susan said that the secondary standards relate to clarity, smell and taste. She would want to verify with Bangor or Brewer water that they do not test for all of these standards. In b. under this section, they would like to add "pre-development" between "any" and "contaminant" in the first sentence. They will leave the rest as it is.

4. 2008.2.9.2. At the end add ", such that post-development storm water runoff rates may not exceed pre-development runoff rates." Change the word "hold" to "handle".

5. 2008.2.9.6 Change "rock" to "mineral".

6. 2008.2.11.6 Noise, Remove "certified sound engineer or" Janet doesn't understand the Planning Board choosing the sound consultant. The intent of this is to have a third party that conducts another sound study. Janet thinks it should be someone to review the study that the applicant had done. This section says "prior to commencement of the study, the Applicant may submit the credentials of an independent third-party consultant of their choosing." They will leave it as it is.

7. 2008.2.11.7, Susan said that the dBA LN and dBC LN reference the parameters of the proper testing tool.

8. 2008.2.11.15, Sound from Production Blasting, Per Mark Stebbins' explanation regarding sound level limits, they will change the levels back to where they were because they are damage-control based. The Board's change of the levels had been complaint-control based. The levels will go back to 129/126/124/123 from 120/117/115/114.

9. 2008.2.15.1, Blasting, change the 121 decibels to 129 decibels.

10. Joan asked if the Board had looked at Dedham's MEO Ordinance. Susan said they had all looked at it. She said they have a 75' setback and an interesting item under reclamation. The Board had asked what happened when a gravel pit was reclaimed and someone from Hughes Bros., had said they bring in debris from somewhere else. Dedham only lets you fill in during reclamation with what is on site. You can bring loam and topsoil for reseeding. Also, their definition of mineral extraction is just like ours that said it was to be taken away. They do not allow processing.

11. There was concern with the vibration from blasting disturbing students at Eddington School. Tom referred to the California study regarding ground vibration. Ground Vibration Monitoring for Construction in Urban Areas states that 70% of the complaints were from residences within 100 to 500 meters from the blast location. (over 1500') Henry questioned why on the setback chart there is a 500' setback for structures and 1000' for wells, when wells would not be 500' from a house. On the Minimum Setbacks Chart, the Board decided to change 2. Structures setback from "500' to 1500'" and change 5. Water Supply Setbacks from "1000' to 1500'". They do not need to create a new column for blasting since they have upped the setbacks. Gretchen will adjust the spacing on the Chart for any lines that were shrunken.

12. The Board reviewed highlighted notes in the Addendum and any questions from the Attorney on their response as they go through the Addendum. (will reference question # from attorney's notes)

a. 2002.1.3, Remove "and proposed" and change "final" to "existing" so it will read

- “...existing excavation areas, depth and height of existing excavation.” In the last sentence, change “deemed” to “considered”
- b. 2002.2.1, Insert “a” before “pre-existing”
  - c. 2002.2.2.3.b, Move d. “Depth of ground water at the site of the proposed excavation as determined by test borings and other geotechnical methods.” to the end of b.
  - d. 2002.2.2.5, Change “1000 feet” to “1500 feet”
  - e. #2, They do not want to use “Common Ownership” in place of “Common Scheme of Development” because they have seen situations where two owners are working together. The definition of “Common Scheme of Development has been added. It reads: The process whereby contiguous parcels with existing or proposed quarry operations where the applicant or property owner has at least a 30% share in ownership or where mineral extraction operations owned by a relative are reviewed as a single license application. In the definition, change “quarry” to “mineral extraction” and after “relative” add “as commonly defined.”
  - f. 2006, Annual Inspections, Susan asked if this was still being questioned, and Gretchen said that this is the modified version. Per Mr. Gilbert’s suggestion, they have stepped up and better defined the procedures for noncompliance. They had added: “ In case of non-compliance, the CEO shall notify the permit holder via phone call and certified mailed letter, and allow the permit holder 48 hours to correct any issue(s). If compliance cannot be achieved within 48 hours, the permit holder shall notify the CEO via phone call and certified mailed letter, explaining the reason(s) for the delay. If the delay is reasonable, such as due to weather conditions or shipping delays for new/replacement equipment, the permit holder shall have an additional 48 hours to correct the issue(s). Thereafter, the CEO may issue a STOP WORK ORDER, EXCEPT FOR REMEDIAL ACTION, until such time as compliance is achieved.”
  - g. 2007.2, Delete the highlighted “NOTE: Add part about renewing permit to continue operation even if inactive for a few years due to unfavorable economy/conditions?” The Dedham Ordinance states that it is deemed complete when less than 100 cubic yards is removed in a 12-month period.
  - h. #6, Enforcement mechanism can be part of the Addendum or cross-reference back to the the main ordinance. 2010.3, Remove the current wording and add “Please see Sections 201 and 202 of this Zoning Ordinance.”
  - i. #7, Severability, Add “2010.7, Severability, Please see Section 106 of this Zoning Ordinance.”
  - j. #4, 2009.3, Per Mr. Gilbert’s suggestion, change “reviewing authority” to “Planning Board”
  - k. #5, 2008.2.14.11 addresses his concern regarding a closure report by stating “Upon completion of the reclamation, or the reclamation phase, a written reclamation certificate, signed by a registered professional engineer, shall be provided to the Select and Planning Boards.” Renumber this section to 2008.2.14.12 and add as a new 2008.2.14.11: “The deed/s for subject property/properties must note that the land is operated as a MEO by either the owner or an entity other than the owner (must specify which), and further, the property/properties is/are subject to a reclamation plan fulfillment as a condition of permit approval. The deed/s shall be filed at the Penobscot County Registry of Deeds.”
  - l. #1, As addressed in the Addendum, the MEO would be closed after 2 years of no activity or notification of owner. Reclamation addresses the steps.
  - m. The Board would like Russell to let Mr. Gilbert know how they responded to his comments. They do not have any questions for him.
  - n. Larry Langille suggests that the processing definition state what is prohibited.
  - o. Larry asked that they consider a 5-acre stockpile size because the different grades of material will require different piles and the piles do not have much height to them. And you would have to include what has been screened and in a pile until it goes

into another pile. The Board decided to allow a 2 acre or 20% of the total area of the mineral extraction site.

p. #3, Storm water management issues, The Board is not clear about what the issue is.

## **STAFF REPORTS:**

## **PLANNING BOARD COMMENTS:**

**PUBLIC ACCESS:** Larry Langille stated that there is still concern that the Board will be choosing the Hydro geologist, but the Board explained that they will not be choosing who they use. If the Board determines that a third party study is needed, they will choose who will do that.

Larry said that in regards to ground water testing, the things that the Federal and Secondary water standards would be testing for are things that would not be found in a quarry. MDEP monitors water if they go below the water table. The Board said that they had added “pre-development” to the wording so that they could be compared to post-development tests. Tests would have to be done at the property boundaries. He further explained that the state has some parameters that pre and post development standards can move within for water tests.

Larry didn’t think that there was any data that washing would create heavy metal deposits. Susan will research it more. She got the information from an earth moving company in Massachusetts that work with clay deposits and the wash ponds have to be dredged and dependent on the land, metal deposits can be found. He said that they clean the ponds out and they sell a lot of it to people that use it in place of loam. When they manufacture loam they mix a certain percentage with top soil and it is used as part of reclaiming the pit.

Larry questioned the study for blasting and percentage of complaints and whether whoever got the study has any with Maine Data? Also, do they have the same regulations for blasting in California? Having a range of 300 to 1500 feet is quit a range. Where did the 1000’ originally come from for the water setback? Gretchen said that the beginning of the study said that it referenced the US Bureau of Mines. They studied where the complaints were, so it would be quite a range. This setback will drastically reduce the areas that they can extract minerals from.

Frank Arisimeek said he spoke about the setbacks at the Public Hearing and he thought the 1000’ was very excessive. He said the Dedham quarry is close to residences and the school. They are pulling information from California and he does not think that is right and then increasing the setback.

Ralph McLeod thinks the buffer zone should be a mile from the school. He worries about the people that live there, the residents of Eddington who deserve to have their lifestyle protected. He questioned why Hughes Bros. didn’t go to Dedham and blast more or go out into Aurora where there are a lot of woods, rather than continuing with this operation.

Ralph McLeod started discussing that they had shown their good judgment by blocking off the deeded right-of-way for Fox Lane. Frank Arisimeek asked if we had to listen to this, it has nothing to do with a quarry. Gretchen explained that Public Access is different from a Public Hearing where people are allowed to speak on the subject of the meeting. During Public Access, anything can be discussed. Mark DeRoche objected to him even speaking because he is not from Eddington. Tom spoke to adjourn the meeting before it got turned in to a fight.

Ray Wood Jr. said that he did not get a chance to speak and he was allowed to. He said that about a year ago, residents voted overwhelmingly in favor of the MEO Moratorium. It was very clear that the citizens of Eddington do not want that activity near their houses. He said that the 1500’ setback is not enough. With a quarry comes ground vibration, dust, silica and noise and they will all diminish the further you get away from people. He would like them to reconsider because it isn’t enough.

Frank Arisimeek said that those people are not here at meetings because they were scared by information about the school. Now they know it wasn’t true and they have changed their minds. Mark D. said there was only one person from the hill here and no one else cares.

Susan asked Mr. Wood and Mr. McLeod how far they think the setbacks should be. Mr. McLeod responded one mile from the school. He further explained that beginning next year the Eddington School will be for pre-kindergarten, kindergarten and first grade students, along with some special needs

students from the entire district. Mr. Wood said that he would like to see 2500' from a well or structure. Frank A. said that there is already a quarry approved there. Hughes Bros. is trying to move it further away, but not to the excess that these residents want. The Board took no action.

Susan said they have heard concerns this evening regarding the Addendum and the Board needs to decide if they are going to revisit those items or send it to the Selectmen as written for review. If they are going to send it to the Selectmen the Planning Board will not need to meet tomorrow, February 28, 2015 or Monday the 23<sup>rd</sup>. The Selectmen will be meeting on Tuesday, the 24<sup>th</sup> and she would like to have all of the members of the Planning Board there to present it to the Selectmen. Russell reminded them that they would need to make a motion to send it to the Selectmen.

Motion that we send the Addendum, as adjusted this evening, to the Selectmen for their review.

**By Susan/ Henry 2<sup>nd</sup>. Vote 4-0**

Motion to send the Zoning Ordinance as amended to the Selectmen.

**By Gretchen/Henry 2<sup>nd</sup>. Vote 4-0**

**NEXT MEETING:**

**ADJOURNMENT:** Motion to adjourn at 8:40 pm.

**By Henry/Gretchen 2<sup>nd</sup>.**

Respectfully Submitted,

Denise M. Knowles