

# TOWN OF EDDINGTON, MAINE

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## PLANNING BOARD

February 5, 2015

5:30 pm

## MINUTES

**CALL TO ORDER:** Tom Vanchieri called the meeting to order at 5:31 pm.

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

**MINUTES:** Table until the next meeting

**NEW BUSINESS:**

**UNFINISHED BUSINESS:**

**OTHER BUSINESS:** The Board will continue with their review of the Town Attorney, Charles Gilbert's response after the review of the Mineral Extraction Addendum Draft. They will Start at Article VII, Miscellaneous.

1. Section 3, Enforcement, The Board would like to ask the attorney, if they need to have an Enforcement Section in the Addendum if they have one in the Zoning Ordinance?
2. Section 4, Right of Entry onto Land, regarding the operator paying a civil penalty and legal fees, The Board said they have a severability clause in the Zoning Ordinance and will leave this as it is.
3. "Section 5, Penalties, Change the beginning to "Any activity that violates the terms or conditions of any MEO permit, approved by the Planning Board or any activity that proceeds without a permit, shall be deemed a nuisance, and the owner/operator shall be subject to a civil penalty..."
4. Section 7, Performance Record, Replace "reviewing authority" with "Planning Board or CEO" per Mr. Gilbert's suggestion. In regards to this provision being beyond the Boards authority, the Board checked where this section came from and it was in the Bucksport Ordinance and they will leave it.
5. The Board said this is in the other section and they will remove Section 1, Public Access to Information from page 27.
6. Zoning Ordinance, Section 401.3.1, The Board will change "constitute" to "show" per Mr. Mr. Gilbert's suggestion.
7. Section 809.2.2, Change the wording to "Issuance by the CEO of a permit in the 300-1000 cubic yard range represents a finding by the CEO that all pertinent standards and criteria applicable to projects of that size have been met."
8. Mr. Gilbert questioned the definition of "active extraction area" because it included stockpiles, Tom said that Mr. Gilbert may be missing the point that this is for gravel pits, etc. Gretchen researched this and found that they do not require applicants to show stockpile areas in the submission requirements and she couldn't find other areas where they talked about stockpiles. She researched other ordinances and came up with 4 things. They will add these to the Addendum: "Stockpiling of excavated materials subject to the definition in Chapter 11 of this Zoning Ordinance, is allowed subject to the following requirements:
  1. Total cumulative stockpile area may not exceed one acre in footprint size, or ten percent of the total area of the Mineral Extraction Site or Area, whichever is less.

2. Stockpiles consisting of materials that pose a sediment or erosion control issue shall be stabilized or covered at all times in accordance with standard Maine DEP Best Management Practices.
3. The limits of the stockpile area shall be clearly marked in a manner acceptable to the CEO, may include but is not limited to bollards or measurements of offsets from nearby structures or landmarks, in order to establish the maximum extent of the pile area.
4. Stockpile areas shall be screened so as not to be visible to abutting properties.

Janet Hughes said that no one has done this yet to date because it doesn't work. She also said that OSHA will not allow bollards to be put up around a stockpile because it could create potential accidents with the loader. Gretchen said this also refers to smaller operations that use bays and that this says you might use bollards and do not have to. Janet said a one-acre footprint could be used. Janet asked if an operation had various screens, conveyors and stockpiles in different areas for different grade of product would they all have to be moved to a one-acre stockpile area. Gretchen told her no, that it was total cumulative area. Janet said the natural area of repose is 30% and would have to be followed so as not to cause a safety issue. Janet said 10% may be reasonable but one acre is very small for gravel pits and loam operations.

9. Mr. Gilbert questioned whether the definition of blasting should consider other forms of rock removal besides explosives, such as high pressure water or liquid (fracking) or air blasts. The Board will leave it for now.
10. Mr. Gilbert commented that the definition in the Ordinance for "borrow pit" is different than what State law contains. The Board will change the definition to match the State's definition which is: "Mining operation undertaken primarily to extract and remove sand, fill, or gravel. Does not include any mining operation undertaken primarily to extract or remove rock or clay."
12. Driveway definition, Mr. Gilbert noted that it was changed probably because of E911.
13. Mr. Gilbert explained that the definition of "Environmentally Sensitive Area" may create problems needing more explanations for wording used in it. The wording was changed to specify where each term is defined to read: "Wetlands, swamps, wild life habitat areas delineated by the Dept. of Inland Fisheries and Wildlife (IF&W), prime agricultural areas as delineated by US Dept. of Agriculture, areas with steep slopes as shown on the Shoreland Zoning map, areas with poorly drained soils as identified in the USDA NRCS soil survey, and flood plain areas (subject to a 100 year flood) as shown on the FEMA FIRM maps. Also to include Protected Natural Resources."
14. The term footprint, in Expansion of Existing Operations, The Board will leave it as it is. Janet said you do not have worry about this because it is against regulations to have the slopes any way other than straight.
15. Explosive definition, They will add "or other materials or technologies" per his suggestion. This will also take care of the blasting definition as it refers to explosives.
16. In regards to storage/stockpile, The Board has addressed it earlier.
17. Processing definition, in regards to screening and mixing the Board was not sure what he was referring to in his statement "the product being screened is limited to the direct products of blasting." They will leave it as it is.
18. Stockpiling and standard it is going to be judged. The Board addressed this earlier.
19. Gretchen checked the Addendum and "surface blasting" is not in there, so they will remove it from the definitions.
20. They will remove the definition of waiver. They have edited it where it is mentioned in the Addendum because he mentioned it previously.
21. The Board will now make the noted changes and copy the Addendum.

The Public Hearings will be held on February 10<sup>th</sup> and 12<sup>th</sup> at 6:30 at the Eddington School. David asked if they could put a limit on the ending time of the Public Hearing. Gretchen explained that they cannot do that, but they can limit the amount of time of each person's testimony.

They will talk on the 12<sup>th</sup> to decide when they will meet again after the Public Hearings. Russell said the Selectmen will meet on February 24, 2015 and the Board should get the Addendum to them at that meeting. They had previously scheduled to meet on February 17, 2015. They will decide then if they need to meet any more that week. Russell said the ATV Club will be using the meeting room on Thursday, the 19<sup>th</sup>.

**STAFF REPORTS:**

**PLANNING BOARD COMMENTS**

**PUBLIC ACCESS:** Mr. McLeod thanked the Board for their diligent service. He said that last year Hughes Brothers said that they wanted to be good neighbors during their application process, but last week they blocked off a fire road that serviced residents on Fox Lane. These residents now do not have any access to fire protection, ambulance or police protection. If they had put up a sign that said "Private Road, Do Not Enter" the Fire Trucks could still use the road if needed, but they have put up physical barriers that will not allow emergency vehicles to go up there. He has a call in to Bangor Daily in hopes they will cover the story. Janet said he should be careful with what he puts in the paper regarding Hughes Bros. Mrs. McLeod said someone saw Frank putting up the barrier.

Janet said that she had spoken previously about sound levels and air blasts. She said they decreased the air blast levels by 9 decibels. She asked why they decreased the air blast levels, they are not sound levels, but air over pressure. Gretchen explained that after Mr. Stebbins presentation and his comments on air blast standards, the Board changed their levels. Janet said the state and federal levels are 129 dBL and 133 dBL based on the type of measurement tool used. She said that in sound levels, 3 represents doubling, so by decreasing it by 9, they have decreased it three-fold. She said the blasting standard is more stringent than running equipment. She wanted to know what measure they used to drop it by 9 dBL and Gretchen told her it was Mark Stebbins presentation and when he said they would start hearing complaints. Janet said that by setting it at 120 dBL, they have written blasting out of Town. Janet has been in MSHA training for the last three days and they referenced bulletins with information regarding air blasts. Russell said that in Susan's notes she said that Janet is right and they cannot call it sound from blasting as it appears that MDEP and MSHA call it an air blast and because it is momentary and not continuous it is not considered the same way manufacturing or industrial continuous noise is. Tom asked Russell to send Mr. Stebbins an email containing the section from the Addendum about air blast and get his opinion. David would like to ask Mark Stebbins how affective setbacks are to reducing noise at Protected Locations. Craig would like to know what type of complaints he received at 110 dbL.

Janet asked what they decided to do about the federal primary drinking water standards in the ground water section and Tom told her they are still reviewing it. David contacted Mr. Stebbins about that and he recommended that the water tests pre and post would be similar to what is done when purchasing a house. Janet said that water tests are done from the faucet.

**NEXT MEETING:** The next meeting will be February 17, 2015 at 5:30 pm.

**ADJOURNMENT:** Motion to adjourn at 6:50 pm. **By Gretchen/Craig 2<sup>nd</sup>. All in favor**

Respectfully Submitted,