

**Harrisville Planning Board
Minutes
May 9, 2012**

Members Present: Sherry Sims, Bob Sturgis, Noel Greiner, Ned Hulbert, Charles Michal (Selectman), Heri Tryba (alternate)

Members Absent: Jay Jacobs (Selectman), Anne Havill (alternate)

Members of the Public Present: Michael Bentley, Carolyn Pockett, Connie Boyd, Max Boyd, David O'Neil, Ranae O'Neil, Phoebe Houghton, Winston Sims,
Mr. Hulbert called to the meeting to order at 7:00 p.m.

Attendance and Voting Members:

Mr. Hulbert introduced the Board and said that the voting members are himself, Mr. Greiner, Mrs. Sims, Mr. Sturgis and Mr. Michal

Agenda:

The agenda was unanimously approved as posted once the minutes of previous meetings were moved to before the Public Hearing.

Minutes of Previous Meetings:

The Board had reviewed the minutes of the May 9 meeting and the May 23 site visit. Mr. Greiner moved and Mr. Sturgis seconded accepting both as distributed. The vote was unanimous for both.

Earth Excavation Application Jaquith Road, Tax Map 10, Lot 31:

Mrs. Sims explained that a legal motion has been filed with the ZBA for a rehearing of their granting of a special exception for earth excavation on the O'Neil's property on Jaquith Road. The application to the Planning Board is complete with this special exception granted. The ZBA will discuss the motion at their May 20 meeting but the Planning Board will continue with its business of hearing the O'Neil's application. Any approval of the application will be conditional on the special exception being granted by the ZBA.

Public Hearing, Earth Excavation Application, Jaquith Road, Tax Map 10, Lot 21

Mr. Hulbert opened the Public Hearing at 7:12.

Mr. Bentley, attorney for the O'Neils, summed up the proposal. Ranae O'Neil asked if the Selectmen have responded to the ZBA condition that access to the O'Neil property be granted through the town gravel pit. Mr. Michal said that they had and he read from the minutes of the June 7, 2012 Selectboard meeting: "The Selectboard discussed allowing the O'Neils the right to pass and repass across Town owned property (the Town's gravel pit in Eastview) for the limited purpose of removing sand and gravels from their property during the life of any excavation permit that might be granted by the Planning Board under RSA 155-E. The public purpose for the granting of these rights is to eliminate the use of Jaquith Road for the excavation project. The Selectboard unanimously agreed to grant this in writing should there be an affirmative vote of the Planning Board at the upcoming hearing on the matter." The O'Neils stated publicly that the access through the gravel pit will be at their expense and will be done in a way that the Road Agent approves.

Dave O'Neil had outlined the area to be excavated in red on the plat, which made the scope of the proposed project clearer. He reviewed this with the public present.

Questions from the Planning Board:

The first question concerned a timetable for the excavation. The O'Neils can't say for sure since it all depends on the jobs Dave O'Neil has and how much gravel or sand he needs for them. In response to a request to set a specific time, he suggested 3-5 years, with 5 years being a safe estimate.

Mr. Michal asked about the sequence and pattern Dave O'Neil would use in his excavation. He was leading up to the question of staging or phasing the reclamation so the appearance of the property can be improved as soon as possible. Dave said the deposits are sand on the North side, that is the left looking in from Jaquith Road, and gravel on the South, or the right, so the pattern of excavation would depend on which type of materials is needed. He is not averse to the idea of reclaiming sections as he works, though, instead of waiting until all excavation is completed.

Mr. Tryba asked if it would be possible for the O'Neil trucks to avoid driving up Hancock Road and through town by using Route 137, but Dave said if he had a job in Nelson or Harrisville, he would have to use Hancock Road to Main Street.

Mr. Sturgis referred to a letter from the Conservation Commission on May 5. This letter recommends water testing of the underlying stratified drift aquifer before any excavation to establish a benchmark. This would both protect the O'Neils from any pollution they did not cause and would be a measure of the water quality for the sections of Harrisville, Hancock and Peterborough that are over this particular aquifer. There was discussion of methods of monitoring wells. Also, Dave O'Neil pointed out that one of the conditions of the ZBA approval, and a method he would follow at any rate, is not to store any fuel on the property. Any spills will be cleaned up by the approved EPA methods. There was more discussion about the Conservation Commission getting the town to test water quality of all wells in town. Benchmarks are good in general, but there was a question about the need for them on this project. Mr. Greiner said there might be data available from the Army Corps of Engineers with the McDowell Dam project. He will introduce Mr. Sims of the Conservation Commission to the people at the dam. Mr. Michal made the point that the activity of excavation is not a threat to an aquifer; an event is what threatens water quality. It has already been established that the applicant will not store fuel toxic substances on the site, nor do any maintenance there. The larger issue of the town's policy about aquifer protection will be a future discussion between the Selectboard and the Conservation Commission.

Mrs. Sims asked whether the O'Neils would be logging, since she had noticed many large trees during the site visit. Dave O'Neil said they would have to cut some of these trees and they would use the wood but he doubted there would be enough for a logging truckload.

Mr. Tryba asked what the public could see from Jaquith Road when looking at the O'Neils' property in the winter. The answer was that while the O'Neils have planted some evergreens in the 50-foot buffer along the road, they are growing but it is slow. The scar of sand is more obvious then.

Mr. Greiner asked what daily operational time frame the ZBA special exception had specified. It was from Monday to Saturday, from 7:30 a.m. to 4:30 p.m.

Mr. Hulbert opened the public hearing up to participation by abutters in favor of the application. No abutters present spoke.

Next to speak were abutters opposed to the application. Phoebe Houghton, who lives directly across Jaquith Road, said she was concerned because the view was very stark in the winter. She wondered if there could be any more shield in the winter. She also suggested that any permit granted be closer to 3 years, not five. Perhaps there could be a review at 3 years? She also wondered how the public would know how much material is being taken from the site. She finds the idea of phased reclamation very appealing, since it would improve her view and diminish the dust sooner. Mr. Michal and Mr. O'Neil said that the amount of sand/gravel is determined by mathematics on a surveying level, which is how the O'Neils came up with the estimate of 19,000 cubic yards. Mrs. Sims said that the O'Neils must file an Intent to Excavate form with the town if their permit is approved. They estimate the amount they will be on this form. Then they file a report of excavated material with the town assessors within 30 days of excavation completion, or by each April 15. Both of these documents are public records.

Mr. Michal asked whether Dave O'Neil would be able to leave a berm on the road side while he excavated behind it until he was getting the final material. This would block some of the excavation activity from the Houghtons. Dave O'Neil said doing this would depend on the material needed and he can't predict that. He said he is willing to be considerate of the neighbors.

Mr. Hulbert invited other members of the public to speak.

Max Boyd asked about the effectiveness of wood chips on the banks, as specified in the reclamation plan. He wondered whether they stayed on the slope. Dave O'Neil said they do, quite well. They become part of the soil and stuff grows on them. He will put a 4-6 inch layer on the slopes.

Winston Sims asked the Planning Board what questions they would need to address before they reach a decision on this application. He also asked if public comment could be kept open during their discussion. Mr. Hulbert said that the public would be able to speak only during the public comment phase of the Public Hearing. Mrs. Sims said that the Board would discuss the standards of operation and reclamation of RSA 155-E and the points brought up tonight. Mr. Michal said he would look at the applicant's characterization of the project to see if there was still any existing negative impact that could be negotiated. He wants to make sure there is no critical fault in the plan.

Mr. Hulbert closed the Public Hearing at 8:25 p.m.

Planning Board Deliberation:

Mr. Hulbert asked what is essential to each Planning Board member.

Mr. Tryba said he didn't think there were any fatal major issues in the plan. The abutters concern is most important to him. What is important is a reasonable balance between excavation and the abutters' needs.

Mr. Michal agreed with the necessary balance between the applicants' and the abutters' interests. He also feels any permit granted needs a specific lifespan. How does the Planning Board make the excavation happen without an open sore on the neighborhood? He also wondered about how the Planning Board reassesses the project while it is ongoing.

Mr. Greiner commented that the applicants have done all the application requested. The discussions have covered areas of concern: hours of operation, a roadside buffer, reclamation timing, access through the town's property, the applicant not making an office there. He said the time frame is still an issue.

Mr. Sturgis saw very few problems with the proposed project and he commented that it would ultimately make the appearance of the O'Neil's property better for the Houghtons.

Mrs. Sims said she was thinking about best ways of structuring the decision process as well as possible phrasing of conditions of a potential permit.

Mr. Hulbert agreed with the need for a balance between the needs of the O'Neils and protection of the Houghtons.

Mr. Michal commented that regarding the difficulty with a motion is that we are granting a permit for the plan submitted by the O'Neils, not a specified amount, which is only an estimate.

Mr. Michal made the following motion: Subject to the Board agreeing on an acceptable set of conditions, the Board grants a permit under RSA 155-E for the project presented by the applicants. Mr. Greiner seconded it. In the following discussion, Mr. Michal stated that he is saying that if the Board can agree on conditions, they are in favor of the project. There was some additional discussion. The vote on this was 4 in favor, 1 opposed. Mrs. Sims did not vote for this motion because she was concerned that it was not specific enough and she was uncomfortable pushing in a vague area.

Possible Conditions:

The Board began to discuss conditions they felt should be attached to an excavation permit for the O'Neils. Mrs. Sims suggested the phrase "The excavation will comply with the operational standards of RSA 155-E:4a and the reclamation standards of RSA 155-E:5", which includes many topics covered in ZBA and Planning Board discussions.

There was then a series of motions for consideration in final phrasing of the approval:

Motion by Mr. Michal, seconded by Mr. Sturgis: A condition should include the hours of operation. Approved 5-0

Motion by Mr. Michal, seconded by Mr. Greiner: A condition should limit access through the Town Gravel pit." Approved 5-0

Motion by Mr. Michal, seconded by Mr. Greiner: The duration shall not exceed 5 years. Approved 5-0

Motion by Mr. Michal, seconded by Mr. Greiner: A condition stating that reclamation will be staged or phased, not done at the end of all excavation. Approved 5-0

Motion by Mr. Hulbert, seconded by Mr. Michal: The Board will discuss a berm or barrier to shield excavation from the public. Approved 5-0

Motion by Mr. Hulbert, seconded by Mr. Michal: The Board will discuss water issue or spill protection. Approved 5-0

Motion by Mr. Hulbert, seconded by Mr. Sturgis: The Board will discuss requirement for the O'Neils to post a performance bond for reclamation. Approved 5-0

Motion by Mr. Hulbert, seconded by Mr. Greiner: The Board will discuss limiting traffic on Hancock Road past Lake Skatutakee. Approved 3-2, with Mr. Michal and Mr. Sturgis feeling the Board cannot legally impose this condition.

Motion by Mr. Hulbert, seconded by Mr. Sturgis: The Board will discuss having the permit conditional on the resolution of the special exception from the ZBA. Approved 4-1. Mr. Michal voted against this for he feels there is no downside to granting the permit, which he said would be obviated by the retraction of the special exception.

The Board agreed to consider these and perhaps other conditions at a special meeting for making the final decision on Tuesday, June 19, 2012 at 7:00 p.m.

Next regularly scheduled meeting is Wednesday, July 11, 2012 at 7:00 p.m.

Mr. Tryba expressed his appreciation for the thinking and planning the applicants did with the application. It reflected much preparation and made the scope of the project very clear to the Planning Board and the Public. The rest of the Board concurred.

The meeting adjourned at 9:15 p.m.

Approved: _____ Date: _____
Co-Chairman

Future Discussion Topics:

Water Extraction

Add a commercial district that is meaningful

Status of roads in town – Dave Birchenough guest speaker?

Village district regulations

Earth Excavation process

Commercial wind ordinance – involve Energy Committee

Other large zoning requirements

Inventory non-conforming lots

Shoreland Overlay Ordinance vs. Shoreland Water Quality Act