

MINUTES
PLANNING BOARD
September 20, 2023 7:00pm
In-person/Zoom

Present: Deirdre Daley (Chair), Josh Muhonen (Co-Chair)-in person, Selectman Shawn Talbot (Ex-Officio) - in person, Nicole Talbot-via Zoom, Liz Freeman- in person, Bruce Ruotsala- in person, Tim Somero-absent, Craig Smeeth- in person, Lou Guarino- in person, Jennifer Minckler- in person.

Citizens in attendance – Sam Benedict- in person, Kirk Stenersen of Higher Design, PLLC, Roy Tilsley of Bernstein Shur Law Firm- in person, , Tyler Seppala- in person, Brian Somero-in person, Bill Seppala-in person, Reuben Somero- in person, Roger Somero-in person, Cathy Somero-in person, Tammy Hannu-in person, Amos Hannu-in person, Karin Miller-in person, Dan Leary- in person, Patricia Chalke-in person, Timothy Blais in person , Frank Volpe –in person, Sarah Volpe –in person.

Open meeting with the pledge of allegiance – 7:06pm

7:07: Roll Call taken by Chair Deirdre. Nicole to sit in for Tim Somero

Minutes of August 30, 2023: To be reviewed during the 10/4/2023 meeting.

Selectmen/Chair/Land Use Report: Selectman Talbot reported that there have been many non-public meetings and these were set up to address tax delinquencies. Arrangements have been made with all tax payers and are going well. The Board of Selectmen will be in attendance for the Planning Board meeting with the Welfare Officer on October 4, 2023. Autumn Fest will be at Memorial Park on October 14, 2023 from 11:00am -4:00pm. Re/Max balloon will be available 3:00-5pm and then a bonfire will be held at 6:30pm.

The Land Use Clerk report that training has been sent for CIP and Hard Road to Travel and those interested have been enrolled.

The Chair advised that there are no hearings on October 4, 2023. Carrie will speaking about welfare/housing. The Chair will not be in attendance and Josh will run the meeting. The ADU document should be reviewed so the group can have a generative discussion about changes that may help alleviate the lack of available residences in town. Bruce asked for the dates of the upcoming meetings. Chair Deidre reviewed and advised the dates for the meeting are the 1st and 3rd Wednesday of each month. Chair Deidre found a document of Oremos gravel pit that notice the site was declared abandoned in 2010, the document can be viewed by the members in Dropbox, and the Land Use Clerk sent the document to both Ed Rogers and David Somero. Silver Scone is going before the ZBA again, the Planning Board will consult with legal after any relevant decisions to better understand any possible actions that are relevant to the Board's work. Chair Deidre met the Planner recommended to use about the master plan – she has assisted several similar sized towns with their master plan. More information will be provided when known. Chair Deidre wants to provide small pumpkins for the children to draw faces on at the Autumn Fest as asked the members if anyone wanted to assist with the table for this.

7:15 Public Hearing – Site Plan Visit Prime Roofing – 485 Turnpike Road Map 11 Lot 96 continued from August 30, 2023. Active members are Craig Smeeth, Shawn Talbot, Chair Deidre Daley, Co-Chair Josh Muhonen, Bruce Ruotsala, Liz Freeman and Nicole Talbot sitting in for Tim Somero. Chair Deidre advised that following the last meeting the Board was going to work on draft conditions and contact Bert about inspections. Bert advised that inspections and as-built are different. Bert gave three recommended inspection points, he also advised fees of \$1000.00 total for the three inspections or the applicant can do their own. The Planning Board reviewed the draft conditions.

Motion to close Public Comment by Josh. Motion seconded by Shawn 7:40pm.

Liz made a motion to approve a site plan review for Prime Roofing for a commercial building with office and warehouse space with the following conditions. Shawn Talbot seconded the motion Roll call vote. Motion carries.

The conditions are:

Conditions Prior to Final Approval:

1. Submission of a landscaping plan for screening consisting of evergreen plantings not less than six (6) feet in height to be installed and maintained by the owner on top of the berm. The screening shall consist of at least two varieties of evergreens.
2. Conditions consistent with the ZBA decision
3. Payment of Fees

Conditions Subsequent to Final Approval:

4. Submission to the Town of a performance security in the amount of \$18,000 for installation and maintenance of landscape plantings, grass and vegetation over 2 years prior to the start of construction.
5. Parking vehicles and equipment outside of the defined parking area is not permitted.
6. All warehouse activity, including the delivery and transfer of materials, must occur between the hours of 6 AM and 6 PM.
7. Outdoor storage of materials, vehicles, or equipment is not permitted unless subsequently approved by the Board.
8. After-dark loitering is not allowed in the parking area, and appropriate signage will be posted.
9. Landscaping shall be maintained consistent with the conditions of approval throughout the life of the building.
10. The total combined number of individuals per shift, including the owner(s), the owner's employees, the lessee(s) and the lessee's employees shall not exceed 29 (twenty-nine).
11. If the Board determines after further hearing (upon a complaint within 1 year) that a fence is necessary, a fence will be installed behind the rear parking area.
12. NPDES permit for erosion control and drainage oversight through the EPA.

Conditions prior to occupancy permit:

13. Inspections will be conducted and reports submitted to the Planning Board (Land Use Clerk) at the following milestones: 1) following clearing to the boundaries indicated on the plan, 2) when rough grading is complete and erosion control measures are in place and 3) after drainage system has been started/before it is covered.
14. As-built plans of the site and installed utilities will be provided to the town prior to occupancy.
15. Conditions identified in the NH DOT Driveway permit.

8:05pm: Public hearing for Abandoned Excavations per 155-E:2, II- Nathaniel E. Tuttle Ashburnham Road, Map 13 Lot 29.

Patricia Chalke was present on behalf of Mr. Tuttle. Chair Deidre provided history of this property. In the year 2000, there was a failure to file reclamation plan. In 2005, there were some site visits and a filing of an intent to excavate and it was noted that there were dumping close to the wetlands. In 2010, there were notice of abandoned vehicles and 55 gallon drums and a comment of junk yard feel of things. In 2010, the minutes determined this to be a grandfathered gravel pit but is still required to file a reclamation plan. 2017, there was notice by DES of excavation of more than 100,000 without an AOT (Alteration of Terrain). 2020 there was an attempt to get the property back to being current on taxes and attempt to settle account. The Planning Board is questioning if this should be considered abandoned.

Patricia Chalke asked for the definition of abandoned. Patricia was provided a copy of the RSA which stated and Chair Deidre read out loud:

II. Abandoned Excavations. The permit and zoning exemptions under RSA 155-E:2, I shall not apply to any abandoned excavation, as defined in subparagraph (a).

(a) For purposes of this section, any excavation, except for excavations or excavation sites described in RSA 155-E:2, III, whether subject to a permit under this chapter or not, for which the affected area has not yet been brought into complete compliance with the reclamation standards of RSA 155-E:5 shall be deemed "abandoned" if:

{1) No earth material of sufficient weight or volume to be commercially useful has been removed from that excavation site during any 2-year period, either before, on, or after

August 4, 1989; provided, however, that before the end of such 2-year period, the owner or operator may extend the period by submitting to the regulator a reclamation timetable to be approved by the regulator, and posting a bond or other security with the municipal treasurer in a form and amount prescribed by the regulator, sufficient to secure the reclamation of the entire excavation site in accordance with the standards of RSA 155-E:5; or

(2) The excavation site is in use and is not an excavation or excavation site as described in RSA 155-E:2, III, but does not conform with the incremental reclamation requirement of RSA 155-E:5-a, or the owner or operator has not posted a bond or other security and submitted a reclamation timetable to be approved by the regulator as described in subparagraph (a){1}; or

(3) The owner or operator of the excavation has neither secured a permit pursuant to this chapter nor filed a report of an existing excavation pursuant to subparagraph I(d) within the prescribed period.

(b) In addition to the enforcement remedies of RSA 155-E:10, the regulator may order the owner of any land upon which an abandoned excavation is located to either file a reclamation timetable, to be approved by the regulator, and bond or other security as described in subparagraph II(a){1}, or to complete reclamation in accordance with this chapter within a stated reasonable time. Such an order shall only be made following a hearing for which notice has been given in accordance with RSA 155-E:7, if the regulator finds that the public health, safety, or welfare requires such reclamation. If the owner fails to complete reclamation within the time prescribed in the order, the regulator may request the governing body to cause reclamation to be completed at the expense of the municipality. The municipality's costs shall constitute an assessment against the owner, and shall create a lien against the real estate on which the excavation is located. Such assessment and lien may be enforced and collected in the same manner as provided for real estate taxes.

(c) The site of an excavation which ceased commercially useful operation prior to August 24, 1977, but for which the affected area has not been brought into compliance with the reclamation standards of RSA 155-E:5, may be made subject to the remedy prescribed in RSA 155-E:2, II(b) only if the regulator finds in writing that specified reclamation measures are necessary to eliminate or mitigate an identified hazard to public health or safety.
155-E:10 Enforcement.

I. The regulator or its duly authorized agent may suspend or revoke the permit of any person who has violated any provision of his permit or this chapter or made a material misstatement in the application upon which his permit was granted. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with RSA 155-E:9

II. Fines, penalties, and remedies for violations of this chapter shall be the same as for violations of RSA title LXIV, as stated in RSA 676:15, 676:17, 676:17-a, and 676:17-b. In addition, the regulator or a person directly affected by such violation may seek an order from the superior court requiring the violator to cease and desist from violating any provision of a permit or this chapter and to take such action as may be necessary to comply with the permit and this chapter. If the superior court issues such an order, the superior court in its discretion may award all costs and attorneys' fees incurred in seeking such an order to the regulator or person directly affected by such violation.

III. To ascertain if there is compliance with this chapter, a permit issued hereunder or an order issued hereunder, the regulator or its duly authorized agent may enter upon any land on which there is reason to believe an excavation is being conducted or has been conducted since August 24, 1979.

IV. [Repealed.

Chair Deidre advised that most of the work has been done but reclamation is needed. The concern is the current condition of the property, materials may not be stored or dumped even if intent is to remove materials. If the land was sold it must still be reclaimed and would remain as a gravel pit until then. Chair Deidre asked Patricia what her plans are. Patricia advised eventually a house or duplex. Patricia believes there was a reclamation plan. She stated there is still trees, additional sand and a huge pile of loam that can be spread or sold. Concrete could be ground up with the right equipment and she sees potential. Patricia is not sure about the trash or dumping and believes it may have been in someone else's trailer and they dumped on the ground. She does not believe the materials in barrels were chemicals, perhaps they were empty. She advised that it does cost money to clean up but needs to pay the taxes first. Selectman Talbot advised Patricia that the Planning Board is asking for a

plan and timeline of reclamation. Patricia does not believe anything will happen this year but perhaps she could get to a decision next spring. Liz asked if it has been determined to be abandoned. Chair Deidre stated this could be done tonight which would result in only authorized activity to be reclamation. Liz read from the SWRPC handbook which states: *An operation deemed abandoned can regain its active status if the operator submits a reclamation time table and posts a bond sufficient to secure the reclamation of the entire site.* Liz asked if Patricia wants to continue as an excavation site or is she closing it? Patricia cannot determine that right now. Liz advised that is a decision that she needs to make.

Discussion continued on the condition of the gravel pit and the options of use. Chair Deidre advised it is best to block access if there is concern about illegal dumping. Mr. Volpe advised that three dumpsters came in to property and **drove** across his yard to the gravel pit. Liz confirmed with Patricia that no decision has been made to keep it as a gravel pit or close it. Patricia confirmed. The decision could be made within six months. Selectman Talbot said the Board is asking for her to make a determination and the site at this time looks abandoned. Six months is too long to make determination. The timeframe needs to be condensed with leeway. The first meeting in December was identified as an appropriate timeline for a decision and the timeline should not be ignored. Liz advised that she can clean up and reclaim the necessary areas and remain in active status by providing a reclamation timetable and post a bond sufficient to secure the reclamation of the entire site. Selectman Talbot stated regardless, it must be cleaned up. Liz stated it is RSA 155-E:2 and will be provided to Patricia. Patricia advised there is a reclamation plan but cannot be found. It may have gone to the state but was never approved as more information was needed. Chair Deidre stated we need to abandon the pit or move forward. There was no approved alteration of terrain. If Patricia wishes to submit the prior completed reclamation plan, she would need to get a copy of the plans from the engineer that created them. A plan needs to be submitted by December 6, 2023 meeting for cleanup of junk and reclamation. Per Selectman Talbot, there is no material to be pulled from the gravel pit at this time. He advised Patricia it is her best interest to look for the documents. She needs to find the reclamation plan. Motion to continue the hearing to December 6, 2023 at 7:00PM by Dee. Motion seconded by Josh. Roll call vote. Motion carries.

Old/New Business: There was discussion of changing the start time of the meetings. It was decided that the Planning Board meetings will remain at a 7:00pm start.

There was discussion of dead end street language that was not reviewed at the prior hearing. The Board will set up a few items and have a public hearing which is noticed in the newspaper – including this item because one of the sentences in the regulations was omitted from consideration at the prior hearing. It will be noticed to amend paragraph 11:02 Development Regulations subparagraph A:4 by removing the strike out of dead-end and inserting the underlines as follows:

11:02 Development Regulations:

A. The following street specification requirements of these Subdivision Regulations for internal streets that only carry traffic within a cluster development may be made less stringent by the Board if deemed appropriate by the Board, after consulting with the Road Agent or Town Engineer:

- 1. The minimum traveled width may be decreased.*
- 2. The minimum shoulder width may be decreased.*
- 3. The requirement that internal streets must be paved may be waived, but under no circumstances shall the town accept any unpaved street as a town road until it has been paved.*
- 4. Cul-de-sacs at the end of ~~dead-end~~ streets that terminate with only one outlet/access may be replaced by acceptable turnarounds, such as hammerheads, provided that each leg of any turnaround shall be at least 60 feet in length with a paved area 50 feet in length, measured from the near edge of the abutting street or leg of the turnaround, and that each turnaround shall be maintained to the same extent as the street of which it forms an end. Radius at the corner of a turnaround shall be not less than 40 ft.*

Board members were in favor of the updated language which was consistent with prior approved language

The new/updated waiver form was reviewed and decided that version B was the best version. This will be added to the subdivision/site-plan application as we work through additional revisions. No hearing is needed for this process. A revision was made to (note: Design and technical requirement waiver requests must be reviewed by the Planning Board Engineer) to Note: waiver requests for design and technical requirements must be reviewed by the Planning Board Engineer). There will be other revisions made to the application in the future for the Planning Board Review portion.

APPLICATION FOR WAIVER OF SUBDIVISION/SITE PLAN REVIEW REQUIREMENT

(Complete one form for each waiver request.)

To the Chairman and Members of the New Ipswich Planning Board:

Date of submission of Subdivision Plan or Site Plan Review _____, 20____

The requested waiver involves parcel/s _____ prepared by _____

Waiver from Article _____ Section _____ of the regulations related to _____

Type of Waiver Request (one form for each waiver request)

- a. ___ Completeness: For an item which is required by the regulations but is not being submitted. Must be acted on before a board vote on acceptance for completeness, OR
- b. ___ Compliance: For an item which is provided but does not conform with the design or technical requirements of the regulations. Must be acted on before a Board vote on compliance.

(note: requirements waiver requests for design and technical requirements must be reviewed by the Planning Board Engineer)

In support of such request – (complete at least one of the two options identifying why the waiver should be granted):

- (1) Strict conformity would pose an unnecessary hardship and waiver would not be contrary to the spirit and intent of the regulations because:

- (2) Specific circumstances relative to the (subdivision/site plan review), or conditions of the land in such (subdivision/site plan review), indicate that the waiver will properly carry out the spirit and intent of the regulations because:

Additional Information: _____

Respectfully submitted: _____

Date:_____

The document of hand- offs & hand- shakes was reviewed. Chair Deidre advised this is along the lines of a process flow with roles and responsibilities and is designed as guiding document. The computer systems that include the Planning Board and Code Enforcement is changing and all departments will be integrated for the same access. As this transition happens, more work to integrate this document into our systems will happen

Recent NH Legislative regulations changes impacting Land Use were reviewed and the Board will consider these further in future meetings.

Lou Guarino presented to the Planning Board slopes and the effects of storm water flow

Motion to adjourn at 10:00pm made by Josh.

Adjourn 10:00pm