

DOVER PLANNING BOARD WORKSHOP
EXCAVATION PERMITS
May 13, 2003

MEMBERS PRESENT: Tony McManus, Joyce El Kouarti, Pete Lavoie, Margaret Stevenson, Beth Thompson, Frank Torr, Ronald Cole, Allen Schintzius

MEMBERS ABSENT: Parks Christenbury and Dennis Ciotti

STAFF PRESENT: Steven Stancel, Planning Director; Bruce Woodruff, City Planner and Jacqueline Freeman, Recording Secretary

A roll call of participants in the workshop was taken as follows: Allen Schintzius, Alternate to Planning Board and Chair for this subcommittee; Tom Fargo, Conservation Commission and also on subcommittee, Pete Lavoie, Community Services Dir.; Beth Thompson, Economic Development Director; Joyce El Kouarti, Planning Board Alternate; Paul Martel owner of Mast Rd. Sand & Gravel, Dick Proulx, owner of Pruven Aggregate; Paul Griffin, pit owner; Ron Cole, Planning Board Chairman; Peg Stevenson, Planning Board, Rick Hebbard, subcommittee member; Tony McManus, Planning Board, Steve Stancel, Planning Director, David Cluff, Gravel pit operator and member of the subcommittee; Bruce Woodruff, City Planner.

Allen Schintzius explained that the subcommittee was put together to look at the extraction industry's code and regulations. He explained how they came to their final proposal and to the workshop to get the comments of the pit owners.

Tom Fargo said that they started with the Master Plan and he read a portion that was pertinent in relation to the reclamation of the extraction industries. He said what they came up with is what RSA 155E says. He said that there is not a lot of difference with what is proposed and RSA 155E with the exception of some guidelines on who would be taking responsibility for enforcement.

Bruce Woodruff stated that the draft regulation will do what our existing regulation has never done and that is to spell out a cohesive process for everyone involved, while following RSA 155E almost to the letter.

Dick Proulx felt that we should have a 30 day notice of the deadline for the application. He said that he would like to see the application form. He also stated that there should be a grace period.

Bruce Woodruff stated that the new form has yet to be done. He agreed with what Dick has said that a notice should be sent out prior the date of April 1st. He said that there is a grace period and an appeals process built in to the draft.

Bruce Woodruff pointed out the section that speaks about the surety bond.

Dick Proulx explained that when you have a bond the bonding company is on the hook, it doesn't run with the calendar year. He said if the gravel company leaves the project, the bonding company is liable.

Paul Griffin explained how they pay a yearly premium. He said that unless the City receives notification, that bond stays in effect.

Bruce Woodruff stated that to take care of the problem of the bond, they would add a number 4 to 170.30.3 C. Other Information to read as follows: 4. A copy of the bond or surety.

Bruce Woodruff stated that if the gravel operator doesn't meet the May 30th deadline, there is window for another meeting. If for some reason the application can't be completed, you have a window for the next Planning Board meeting.

Dick Proulx stated that through the whole process there should be an appeals process.

Bruce Woodruff said that 170.30.4E Appeals was taken word for word from the State Statute. He said that decisions made by the Planning Board are appealable to the Zoning Board.

Paul Griffin asked if there should be a board in between the Planning and Zoning Boards.

Bruce Woodruff stated that the reason that they wrote it the way that they did is to clarify the responsibility of the Code Enforcement Officer, City Engineer, Planning Office and the Planning Board. There should not be any confusion, if it's a matter of enforcing something it's the Code Enforcement Officer that would take care of it and it's spelled out clearly. He said that any decision of the Code Enforcement Officer can be appealed to the Zoning Board of Adjustment.

Discussion ensued with the decision of everything going to the ZBA rather than the Planning Board. Bruce said that there were two types of appeals; one has to do with the granting or the not granting a permit. The appeal can come from an applicant, owner or an abutter on the Board's decision on the permit. The other is an appeal of an administrative decision by the Code Enforcement Officer enforcing the regulation.

Paul Martel asked why it was the ZBA and not the Planning Board would be taking up the appeal.

Bruce Woodruff said that statutorily any appeal to an administrative decision made by the administrative officer of the City has to go to the Zoning Board.

Discussion ensued with regard to penalties and violations.

Bruce Woodruff stated that everything that is in 155 E is in this ordinance.

Dick Proulx was concerned with the reclamation and the transfer of the pit. He said that he abuts the City. He said that what existed is that back in the 50's and 60's is different than what is here now. He said that he doesn't remember anything saying that they had to replant with tree seedlings. He said that he is aware that you have to loam and plant the slopes but he has never heard of tree seedlings being a requirement. He said that their area will not be abandoned and gone forever because the land is too valuable.

Bruce Woodruff read NH RSA155E: 5.1. from the State Regulations where it stated that planting tree seedling where the trees were once removed was required . He said that it is clear that they want you to start reclaiming. Bruce said that when you get close to changing the use of your land, the Board will be receptive to a waiver of the provisions of anything in the gravel permit ordinance. He explained how certain things may be waived for a good cause. He said that they made sure that the waiver section was in here and that the authority is vested with the Planning Board for any waivers.

Dick Proulx stated that it is a good education for everyone.

Dick Proulx read that 170.34A.1 Permits shall be issued only by the owner or his agent and shall not be transferable without prior consent of the Board. Dick said should the estate be passed down to someone who doesn't wish to run the pit and might want to sell it, there will be no compensation. Dick said that they have to be able to sell it as an ongoing business, like a gas station or a restaurant. He said that this ordinance will render it worthless.

Bruce Woodruff stated that he believes that that it is in the ordinance so that a subsequent owner just doesn't come in and start doing things without knowing the rules.

Dick Proulx stated that the subsequent owner still has to operate by the same rules, but the way this is written, you have rendered the pits worthless without compensation. He said you are saying that we are out of business as a gravel operator.

Tom Fargo stated that NH RSA155E:8 says that a permit shall not assignable or transferable without prior written consent of the regulator. (Regulator being the City)

Dick Proulx stated that if that is what's in the actual statute, he can't argue with it.

David Cluff stated that the business being transferred is a legal question and a business transfer is not a transfer of the permit.

Tony McManus stated that you cannot transfer a liquor license without the review of the State or the transfer of a gun shop.

Bruce Woodruff stated that the operator could just go to the Planning Board because all it says is that prior written consent of the Board is needed.

Paul Griffin thought that the appeal portion should be looked at.

David Cluff stated that he was not concerned with who would be enforcing this ordinance because you would be dealing with Tom Clark, the Code Enforcement Officer.

Steve Stancel stated that the ZBA is a quasi-judicial Board set up by State Statute and they are meant to be an independently thinking organized group and the concept is you make your argument and Tom Clark, Code Enforcement Officer, makes his argument and they are supposed to make an unbiased decision.

Dick Proulx stated that he wanted to thank everyone on the committee.

Tony McManus stated that it was excellent work.

Ron Cole stated that it was a tremendous amount of work that has taken place

Allen Schintzius stated that he wanted to thank the subcommittee members and City Planner Bruce Woodruff.

Tom Fargo said that they were looking at master planning the land as the gravel starts to play out.

Chairman Cole closed the workshop at 7:50 PM.