

Planning Board Meeting Minutes

Town of Lyman

June 7, 2017

Members Present: Chairman Roderick Tetu, Vice Chairman Donald Hernon, David Dulong, Cecile Dupuis and Kelly J. Demers; CEO Patti McKenna

Others in attendance: Katherine Allen, Roger & Sandra Bergeron, Jesse Belanger, Paul Boucher and Patrick Perron

Chairman called the meeting to order at 7:00 p.m. Vice Chair moved to allow Mr. Demers as a full voting member for this meeting, seconded by Mr. Dulong, all in favor.

START 7:00 PM LEO BELANGER (MAP 10 LOT 33): Following the public hearing, Mr. Belanger approached the Board. Chair asked if there were any questions from the Board or if they thought there was anything lacking. With none mentioned, the Board addressed the gravel pit checklist (Section 11.2.3) as follows:

C. Buffer strips: Berm and buffers to be established. Mr. Dulong moved that applicant meets this, seconded by Mr. Demers, all in favor.

D. DEP Best management practices: Listed on the plan, using calcium. Chair moved applicant meets this, seconded by Mr. Dulong, all in favor.

E. Erosion control: Internally drained pit and applicant needs to stay away from the wetland. Chair moved that he meets this, seconded by Mr. Dulong, all in favor.

F. Water levels: Needs to stay five feet above. The reading has been done. Mr. Dulong moved that he meets this, seconded by Vice Chair, all in favor.

G. Hours of Operation: Listed on plan. Chair moved that he meets G, seconded by Mr. Dulong, all in favor.

H. Open Acreage: Note on plan. Vice Chair moved that he meets this, seconded by Mr. Dulong, all in favor.

I. Reclamation plan: Listed on the plan. Escrow check of \$5,000 will be provided once application is approved. Chair moved that he meets this, seconded by Mr. Demers, all in favor.

J. Surface Water Runoff: Not going over five acres and property is internally drained. Chair moved that he meets this, seconded by Mrs. Dupuis, all in favor. Mr. Belanger asked how often CEO inspects the pit operation. CEO said she checks after the first year and then inspections will be scheduled. Mr. Dulong explained that he can reclaim as he goes ie: reclaim two acres and open another two as long as he keeps it at no more than five acres at any time.

K. Traffic Safety: Chair moved that he meets this as the Board hasn't yet made any requirement, seconded by Mr. Dulong, discussion followed regarding Trucks Entering signs. Mr. Dulong thinks the signs are already there because of the pits on Mast Road. The Board will require signs if there aren't any there. Vice Chair moved the application meets the requirement with the condition that signs will be placed as recommended by the Road Commissioner, seconded by Chair, all in favor.

L. Optional Conditions of Approval: Applicant will maintain the road so long as he continues to work the pit, and place the signs if necessary. Mr. Dulong moved that applicant, with those conditions, meets this requirement, seconded by Vice Chair, all in favor.

M. Inspections after initial approval: A 2-year requirement, listed on the plan. Mr. Demers moved applicant meets this requirement, seconded by Chair, all in favor.

N. Existing Operations file notice: Applicant has come in after changes in ordinance, therefore Chair moved that this is not applicable, seconded by Vice Chair, all in favor.

O. State DEP reports: Should it be placed as a condition? DEP sends the town copies of their reports automatically. Vice Chair moved the applicant provide the CEO any copies of reports by the ME DEP within 30 days of receipt, seconded by Mr. Dulong, all in favor.

P. Coordination with ME DEP: If applicant applies to DEP to go below the water table (our ordinance does not allow it so he'd have to return to the Board) then copies of reports need to be provided to the town. Chair moved that applicant meets this, seconded by Mr. Dulong, all in favor.

Sixteen Standards 8.3.6.B of the ordinance:

1. Will meet the definition of the use, the Zoning District requirements and any other requirements set forth in this ordinance: Chair moved that applicant meets this standard, seconded by Mr. Dulong, all in favor.
2. Will not have a significant detrimental effect of the use and peaceful enjoyment of abutting properties as a result of noise, vibrations, fumes, odor, dust, light, glare, traffic, or other cause: At the public hearing an abutter questioned many of these and had concerns about the effect on her and her neighbors. Mr. Demers said the Board needs to determine whether the effects are significantly detrimental; he thinks they are minimal due to size of the operation. Mr. Dulong moved that applicant meets this, seconded by Chair, all in favor. Dust control measures are listed on the plan.
3. Will not have a significant adverse effect on adjacent or nearby property values: Vice Chair said a participant at the public hearing had comments on this. CEO asked if there were any supporting documentation? Vice Chair said No, but the participant felt it would reduce the value of her property without the reduction in taxes. The key again is "significant" and with no documentation provided, the opinions of the Board have to be based on evidence. Chair moved that he meets #3, seconded by Mr. Demers, all in favor.
4. Will not create a hazard to pedestrian or vehicular traffic or significant traffic congestion: Mr. Demers moved that based on the size of the operation, they will meet the criteria, seconded by

Mr. Dulong. Discussion: Applicant will widen and maintain the road. Signs will be placed, if required. All in favor.

5. Will not result in fire danger: A letter from Fire Dept. addressed this. Chair moved that he meets this, seconded by Mrs. Dupuis, all in favor.
6. Will not result in flood hazards or flood damage, drainage problems, ground or surface water contamination or soil erosion: Property is internally drained. Mr. Demers moved that he meets criteria for #6, seconded by Mr. Dulong, all in favor.
7. Will not create a safety hazard because of inadequate access to the site, or buildings for emergency vehicles: Applicant will place a Knox box from Fire Dept. Chair moved that he meets this, seconded by Mr. Demers, all in favor.
8. Has proposed exterior lighting which will not create hazards to motorists traveling on adjacent public streets, is adequate for the safety of occupants and users of the site, and will not damage the value or diminish the usability of adjacent properties: No lights proposed therefore Chair moved that applicant meets this, seconded by Mr. Demers, all in favor.
9. Makes provisions for buffers and on-site landscaping which provide adequate protection to neighboring properties from detrimental features of the development. The applicant shall provide a plan prepared by a Registered Landscape Architect, or other qualified professional approved by the Planning Board: Buffers are in place plus he will create a berm with trees, therefore Chair moved that applicant meets this, seconded by Vice Chair, all in favor.
10. Makes provisions for vehicular parking, loading, unloading, as well as vehicular and pedestrian circulation on the site, and onto adjacent public streets which would create hazards to safety nor impose significant burdens on public facilities: Chair moved that applicant meets this because he will have a paved drive coming in, gates, and Mr. Demers said he will be widening the road, seconded by Mr. Dulong, all in favor.
11. Makes adequate provisions for the disposal of wastewater and solid waste for the prevention of ground or surface water contamination: No proposed bathrooms or septic systems. Chair moved that applicant meets this, seconded by Vice Chair, all in favor.
12. Makes adequate provisions to control erosion and sedimentation: Internally drained. Vice Chair moved he meets this requirement, seconded by Mrs. Dupuis, all in favor.
13. Makes adequate provisions to handle storm water run-off and other drainage on the site: Internally drained. Chair moved he meets this, seconded by Mr. Demers, all in favor.
14. Provides for a water supply which meets the demands of the proposed use, and meets the needs for fire protection purposes: Not a subdivision, just a gravel pit. Chair moved he meets this, seconded by Mr. Demers, all in favor.
15. Makes adequate provisions for the transportation, storage and disposal of hazardous substances and materials as defined by State and Federal Law; the storage of chemicals, explosives, or hazardous items as defined by the National Fire Protection Association Code 704, Class 3 or 4 materials are not permitted: No hazardous materials will be onsite. Only fuel going into equipment and they'll have a refueling pad. Mr. Dulong moved applicant meets this, seconded by Chair, all in favor.
16. Will not have an adverse impact on significant scenic vistas or on significant wildlife habitat which could be avoided by reasonable modification of the plan: No documentation from the

Fish & Game stating there were issues. Mr. Demers moved he meets criteria for 16, seconded by Mr. Dulong, all in favor.

Mr. Belanger asked if everything was in order. The following previous requests/conditions were addressed:

1. A Letter from the Goodwins Mills Fire Dept. provided. Chair moved he meets this, seconded by Mr. Demers, all in favor.
2. Response from Maine Dept. of Inland Fisheries re: proposed development: Received a letter from them. Chair moved he meets this, seconded by Mr. Demers, all in favor.
3. Response from Dept. of Conservation: Received the letter. Chair moved he meets this, seconded by Mrs. Dupuis, all in favor.
4. Response from ME Historical Preservation: Received. Chair moved that he meets this, seconded by Mr. Demers, all in favor.
5. C. Any applicable ME DEP permits: Chair moved he meets this as he is five acres or under, seconded by Vice Chair, all in favor.
6. D. Entrance permit from DOT: None needed. Chair moved he meets this, seconded by Mr. Demers, all in favor.
7. Access road: Listed on plan. Chair moved he meets it as it's on the plan and applicant knows he has to pave it, seconded by Mr. Demers, all in favor.

CEO stated it would be good to add the escrow amount as a condition in the Notice of Decision requiring \$1,000 per acre for a total of \$5,000.

Vice Chair moved that the applicant meets the requirements of the Lyman zoning ordinance for mineral extraction with the following conditions:

- 1. He will widen the road and maintain it for as long as he's working the pit.**
- 2. Signs installed, if necessary, as recommended by the Road Commissioner.**
- 3. A berm will be put up on the far side with the trees on it as stated on the plan.**
- 4. An escrow in the amount of \$1,000 per acre for a total of \$5,000 to the Town of Lyman.**

The motion was seconded by Mr. Demers, all in favor.

Mr. Belanger asked if there was a time limit to get the permit. CEO said this is the permit and he can start the pit once the Notice of Decision is provided. The Board has seven days to provide a signed decision which can be signed by Chairman Tetu or Secretary Dupuis. Two copies of the plan should be signed for our records however there are no requirements that they have to be recorded.

Completed at 7:38 pm.

START 7:38 PM TOM LACHANCE & JOCELYN BATTIGE (MAP 16 LOT 49): Applicants approached the Board with a relocation in a Shoreland zone request at 41 Shore Road, Kennebunk Pond. Chair asked how far back the power lines are from the cabin. Mr. LaChance said he couldn't give an exact but probably about thirty feet. The power lines are approximately 24 feet in height and they run through the middle of the lot. The site plan provided shows where they want to relocate. On another sheet, the plan shows where the existing one is located. The current camp is 15 feet from the

water and is inhabitable. They don't want to be that close but would like to move back to be more in line with neighbors as well. Mark Hampton did the septic design which has the recommendation as to where it should be placed and where a new drilled well should be placed. Mr. Dulong stated that it needs to be at least 100 feet from septic systems. Neighbor does not have a septic system, only a tank. They hope they might be able to use the existing well by repointing it rather than replace it. Mr. Dulong asked if there was an easement from the power company for the lines. Applicant does not know however he was told they put them in before the road was put in and they need a 10-foot clearance from the lines. The old map from the 1950's shows the road as Poor Farm instead of Shore Road. They are requesting to be 30 feet back from the water (15 feet more from where they are).

A site walk was set for June 21 at 6:00 pm, meeting at town hall first and proceeding to the site. Applicant will be placed on the agenda that evening for 7:00 pm. Chair said if nothing drastic comes up from the site walk, a public hearing will be scheduled for the following meeting. If nothing huge comes up from the public hearing, the Board could potentially make a decision that night. **Completed at 7:50 PM**

MINUTES: Chair moved to accept the minutes of the June 1, 2017 public hearing for zoning changes as written, seconded by Mr. Demers and Vice Chair, all in favor. No one showed up at that hearing. Chairman moved to accept the minutes of the May 17, 2017 meeting as written, seconded by Mr. Demers, all in favor.

MAIL: Maine Townsman magazine, Email from SMPDC for invitation to marijuana forum

NEW BUSINESS: CEO and some Board members attended the SMHC Marijuana forum with a Colorado representative explaining the negative aspects of legal marijuana operations. The person pointed out ways people were abusing the system, sending marijuana out of state, people dying, minimal amount of income to municipalities. The one on June 14 will be attended by Rod and the speaker will be someone who owns an operation. Steven Buck, Sanford town manager, had spoken too. CEO said we have to create an ordinance and get a moratorium set up until decisions are made. Need to protect people from odor and security and electrical issues. Mr. Buck told them that residential houses are not built to be grow rooms as they cause mold and odor, which never gets out of the house. They were told there are five different levels to deal with in creating ordinances. Need to determine what's practical, perhaps use verbiage from other town ordinances, deciding on prohibiting all or some aspects.

Selectmen will need to set a moratorium. **Vice Chair moved that the Planning Board recommends to the Select Board to place a moratorium on marijuana retail establishments, cultivation, products, manufacturing facilities, testing facilities, social clubs and commercial medical grow pending a further review, seconded by Chair, all in favor.** CEO will draft it and get it to the Selectmen. Can have 6-month moratorium with an additional six months if we are working on it.

OLD BUSINESS: Table Commercial Design standards discussion. Board signed the Belanger plans.

OTHER BUSINESS: Mr. Dulong said this may be his last meeting as he is running for Selectmen and said he has enjoyed working with this Board.

Set Meeting Agenda:

AGENDA for June 21, 2017

6:00 PM Site walk – LaChance and Battige

7:00 LaChance and Battige

Next Any new applicants

Monthly Report to Select Board: None

ADJOURNMENT: Chairman moved to close the meeting at **8:15 pm**, seconded by Mr. Demers, all in favor.

Respectfully submitted,

Irene C. Single, Clerk

Roderick Tetu, Chairman

Donald HERNON, Vice Chair

Joseph Wagner

David Dulong

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Cecile Dupuis, Secretary

Kelly J. Demers, 1st Alt.